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IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

Report submitted Mr. Abdelfattah Amor, Special Rapporteur, in accordance with Commission on Human Rights resolution 1994/18

Addendum

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Introduction

1. In this addendum, the Special Rapporteur devotes chapter I to the communications transmitted to three Governments before the fiftieth session of the Commission on Human Rights and also to the replies received from eight Governments concerning communications transmitted during the same period, in so far as that information was not published in the preceding reports. In chapter II, the Special Rapporteur considers the replies received from Governments in 1994 to his letter of 21 April 1994 addressed to all States with a view to gathering any new information and any other relevant details falling within the framework of his mandate on religious intolerance.

I. SPECIFIC INCIDENTS IN VARIOUS COUNTRIES (PRIOR TO THE FIFTIETH SESSION OF THE COMMISSION ON HUMAN RIGHTS) EXAMINED BY THE SPECIAL RAPPORTEUR

2. The Special Rapporteur reports, in particular, on the communications addressed to the Governments of China, the Islamic Republic of Iran and Pakistan in 1993. With regard to the Islamic Republic of Iran and Pakistan, the Special Rapporteur had decided in his previous report (E/CN.4/1994/79) not to refer to the communications transmitted if the Governments concerned had not been granted the minimum two-month period needed to undertake the necessary investigations and to reply to the allegations.

3. In 1993, the Special Rapporteur had also communicated to the Chinese Government allegations which were both general and detailed and for which the period allowed for replies had been found to be less than two months. The Chinese Government had sent a first reply concerning the general part of the allegations (see E/CN.4/1994/79), but had not replied to the detailed part of the allegations relating to a series of individual cases requiring longer investigations. This chapter reflects the detailed replies concerning those allegations.

4. The Special Rapporteur received the reply of the Pakistani authorities dated 8 February 1994, as well as that of the Chinese authorities which was communicated to him during his visit to China. On 14 January 1994, the Special Rapporteur also sent an urgent appeal to the Iranian Government, which replied on 15 February 1994.

5. Moreover, in 1994, after the finalization and presentation of the report to the fiftieth session of the Commission on Human Rights, the Special Rapporteur received the replies of the Governments of Australia, Cuba, Greece, Myanmar and Spain concerning the communications transmitted in 1992 and 1993.

AUSTRALIA

6. In reply to the communication from the Special Rapporteur dated 14 October 1993 (E/CN.4/1994/79, paras. 34 and 35), the Attorney-General's Department of Australia stated that the Australian authorities were considering the questions raised by the Special Rapporteur and would be transmitting their observations as soon as possible at the beginning of 1994.

7. On 21 January 1994, the Australian Government transmitted to the Special Rapporteur the following information concerning the allegations mentioned:

> "Events of the general nature described by the Special Rapporteur on the question of religious intolerance involved action taken by the police and social welfare agencies in two States of Australia, namely, New South Wales and Victoria. In response to the Special Rapporteur's inquiry, the Australian Government sought advice from the New South Wales and Victorian Governments.

The latter pointed out that the events in question were the subject of continuing judicial proceedings. In New South Wales, civil claims on behalf of the children who were taken into care on 15 May 1992 were lodged with the Supreme Court as recently as December 1993 and served on the Department of Community Services of New South Wales on 12 January 1994.

In the State of Victoria, applications by the Department of Health and Community Services to the Children's Court for the protection of over 90 children under the Children and Young Person's Act 1989 are proceeding. The case has been on appeal to the High Court of Australia on preliminary issues. The hearing of the care applications is expected to begin in February 1994.

The Australian Government fully supports the work of the Special Rapporteur. However, as the domestic courts are currently considering that matter, it would be premature for the Australian Government to comment further at this time. Indeed, much of the relevant information is still in dispute before the courts and any public statement by the Australian Government might adversely affect the proper administration of justice."

CHINA

8. In a communication dated 25 November 1993 and addressed to the Chinese Government, the Special Rapporteur transmitted allegations the general part of which was reproduced in his previous report (E/CN.4/1994/79, para. 41) and the detailed part of which is as follows:

"1. Harassment of Protestants in China

The Protestant churches in Yikezhao and Ih Ju League, Batou, and in a village near Hohhot in Inner Mongolia, as well as in the provinces of Shaanzi and Gansu, were reportedly destroyed by the Public Security Bureau in 1991 and 1992. In one incident near Datong, Shaanxi, 300 worshippers were allegedly beaten and removed by force in the middle of a religious service. The Church, although officially affiliated, is said to have been razed to the ground.

In March 1992, members of the Public Security Bureau armed with electric prods, truncheons and belts are said to have interrupted a religious service being held at night in a house in the country near Suzhou, Jiangsu province. At least 30 worshippers are reported to have been detained following this incident.

In March and April 1992, the pastor in Guangzhou, Lin Xianqao (Samuel Lam), was allegedly interrogated six times by the police and the Bureau for Local Religious Affairs for refusing to affiliate his parish with the official structure. Fifteen thousand Bibles are said to have been seized at the house of one of his assistants.

At the beginning of April 1992, eight itinerant evangelists from northern Zhejiang are reported to have been arrested and beaten. Six of them were released during the following two months.

In Queshan country, Henan province, 80 members of the underground Protestant Church are reported to have been arrested and detained by the police in April 1992. A month later, the police allegedly also interrupted a religious service being held in a private house belonging to Chai Danghe. Statues and hassocks were reportedly confiscated before the premises were closed down. On 15 June, members of the Public Security Bureau armed with electric prods are said to have forced their way into another house and beaten the 100 so worshippers assembled there, a dozen of whom were reportedly detained and interrogated before being released a few weeks later. All the persons involved in this incident were subsequently placed under house arrest.

In December 1992, some 100 Protestants are reported to have been thrown into prison in Guoyang, northern Anhui province. Their release was delayed after they refused to pay heavy fines. The police reportedly reacted by carrying out searches of the homes of the persons detained and confiscating their property and livestock.

Individual cases

Zhongxun Pei, aged 75, an evangelist of Korean origin in Shanghai, was reportedly arrested in August 1983 for having, among other things, played a leading role in the underground Protestant Church in the region of Shanghai and for having received a large number of Bibles from abroad and distributed them to his fellow Protestants of Korean origin in China. Sentenced to 15 years' imprisonment, he is thought to be held in Shanghai prison No. 2. Although he is exempted from working and is housed in a private cell, his precarious state of health is said to be causing concern to his family, who fear that he may die in prison before the end of his term in five years' time.

Guoxing Xu, aged 38, a leader of an underground Protestant Church in Shanghai, was allegedly arrested on 14 March 1989, released on 16 June after numerous interrogations, rearrested on 6 November 1989 by the Public Security Bureau in Shanghai and sentenced on 18 November 1990 to three years' re-education through labour for having disrupted the social order and encouraged unrest. He is allegedly held at the Da Feng labour camp, in northern Jiangsu province.

Zhu Mei (or Sha Zhumei), aged 74, a former schoolteacher and member of an independent Protestant Church, was reportedly arrested on 3 June 1987 at her home in Shanghai and beaten by police. She was tried in secret on 3 November 1987 and released on parole on 3 April 1992 for medical reasons, following ill-treatment suffered in prison, as a result of which she apparently lost the use of one knee. After two months in hospital, she was reportedly placed under house arrest and her movements restricted. Her political rights are said to have been suspended until 1995 and both she and her family are reportedly kept under close surveillance by the authorities. She had reportedly already been imprisoned for six years during the Cultural Revolution because of her religious activities.

Chang Rhea-yu (or Zhang Ruiyu), aged 54, a member of one of the underground Protestant Churches in Fujian province, is reported to have had her house searched and to have been molested by members of the Public Security Bureau in May 1990. They allegedly inflicted burns on her face with their electric prods and broke several of her teeth. They then also apparently confiscated Bibles and religious literature. She was reportedly detained from 25 August 1990 and tried on 9 and 10 April 1991 for holding illegal meetings, distributing seditious propaganda, aimed in particular against the measures taken by the authorities during the events in Tiananmen Square, and for having corresponded with foreigners. She was sentenced to four years' imprisonment and is reported now being held in a women's prison in Fuzhou.

Li Jiayao, aged 30, head of one of the underground Protestant Churches in Cuangdong province, was reportedly arrested on 25 September 1990 and sentenced without trial on 17 September 1991 to three years of re-education through labour for having received and illegally distributed Bibles and foreign literature. He is thought to be currently held in Chek Li prison near Guangzhou. The police are said to have informed his family that he would be released only on payment of a fine of Y 5,000 ($900), Y 10,000 for a quicker release. His family is said to have rejected this arrangement.

Yongze Xu, aged 52, of Nanyang, Zhenping country, Henan province, is said to have been released in May 1991, but to be kept under strict surveillance by the authorities. He was arrested twice in 1982 and 1988, on the second occasion being sentenced to three years' imprisonment. He reportedly began his evangelistic activities as early as 1968 and helped to establish the New Birth Christian Movement, which spread to other provinces with the formation of some 3,000 local underground groups, many of whose members are said to have been arrested or detained subsequently.

Chen Zhuman, aged 50, a member of the Church of the New Testament in Fujian, is reported to have been arrested on 14 December 1991 for his religious activities, including contacts with members of foreign churches, and to have been tortured by the police at the Putian county detention centre with a view to extracting a confession. In July 1992, he is said to have been sentenced without trial to three years' re-education through labour and to have been transferred one month later to a prison in Quanzhou, Fujian, where he was severely beaten by guards and fellow prisoners. He is said to have lost his hearing and to be in a precarious state of health as a result of the torture he suffered.

Pastor Moshan Xie, a well-known writer and evangelist, aged 70, is said to have been released on bail on 23 July 1992, but is reportedly still being kept under strict surveillance by the Shanghai Public Security Bureau. He had allegedly been arrested on 3 May 1992, on his return from Guangzhou, for having preached outside the area of his domicile and undertaken an illegal itinerant evangelization campaign. Pastor Xie had reportedly already been imprisoned from 1956 to 1980 for refusing to join the Three-Self Patriotic movement.

In June 1992, in the province on Shandong, the Religious Affairs Bureau of the province reportedly destroyed the religious edifice of the Family of Jesus sect in Duoyigou, confiscated its property and imposed severe prison sentences on some 30 of its leaders. Created in the 1920s, this sect apparently disappeared in the 1950s and then emerged again, mainly from 1985 onwards. In 1992, it reportedly had some 3,000 members. The head of this community, Zheng Yunsu, was allegedly arrested in June 1992 for his religious beliefs and sentenced to 12 years' imprisonment. Three of his sons are also said to have been sentenced to nine, eight and seven years in prison, respectively.

Eight Christians, mostly of peasant origin, belonging to a local chapter of the Church of the New Testament a Protestant community banned by the authorities in a number of regions in China, are said to have been arrested on 8 and 9 September 1992 in several villages of Shouguang county, some 200 kilometres to the east of Jinan, the capital of Shandong province. Their names are given as Zhang Lezhi, a tradesman aged 32, Yan Peizhi, a farmer aged 35, and his wife, Zheng Yulian, aged 23, Xu Zhihe, a 50-year-old farmer, and his wife, Guo Ruiping, Zhu Zizheng, aged 30, and Hu Jinting, aged 38, the last two both being farmers.

Accused of participating in 'illegal' religious activities and 'contributing to the resurgence and expansion of the Church of the New Testament', these persons were allegedly taken to the detention centre of the town of Shouguang, where they are said to have been beaten and otherwise ill-treated. Upon protesting his innocence, Zhang Lezhi was allegedly hit with electric truncheons by two policemen. Then, handcuffed and with his legs in fetters weighing 9 kilos or more, Zhang Lezhi reportedly spent three months doubled up, day and night, his four limbs held together by a short chain, without ever being unshackled even to eat or sleep. Another detainee, Zhu Zizheng, is said to have undergone the torture of the 'security chair', fitted with spikes at the sides so that every movement is painful. He was allegedly beaten and force fed while attached in this position.

Five persons are reported to have been released after one to three months' detention. As regards Zhang Lezhi, Yan Peizhi and Xu Zhihe, the sources indicated that they were sentenced in December 1992 by the Shouguang court to three years' re-education through labour, but that the exact nature of the offences with which they were charged is not known. Allegedly taken to the Chang Le camp, some 40 kilometres from Shouguang, they are said to have been ill-treated there by common criminals serving sentences and to have been assigned the hardest tasks.

On 8 September 1992, in Henan province, the deliberations of a group of Protestants gathered together for a seminar at a farm in the village of Guofa, Wuyang county, were reportedly interrupted when some 40 members of the Public Security Bureau burst in and arrested 170 of the participants. Some 10 apparently managing to escape. It is said that 12 participants were released after paying the cost of their stay in prison and found when they returned home that everything of value, including animals and farm implements, had disappeared. The family of Ma Shuishan, at whose home the seminar had been held, apparently watched helplessly while all his personal effects were pillaged. It is said that, on about 1 January 1993, Ma Shuishan was again arrested and that his family has had no news of him.

On 27 March 1993, in Shaanxi province, five Protestants from the village of Taoyuan, in Xunyang county, were allegedly persecuted and tortured after attending a religious service, one of them, Lai Manping, aged 22, dying from his injuries. According to the sources, eight or nine members of the Public Security Bureau interrupted the ceremony, seized three men and two women and stripped them of their clothing in front of the other worshippers. Twenty-six of them were allegedly forced by threats to beat these five persons with bamboo canes, each of them receiving 100 strokes. Half-conscious, the three men were reportedly strung up by their feet and beaten again. When the guards realized the seriousness of Lai Manping's injuries, they reportedly called in a physician who gave him only minimum care. Then, realizing that he was at death's door, they apparently released him. It is said that Lai Manping dragged himself along for 10 kilometres before collapsing and being taken in by some villagers. He reportedly died a day and a half later.

The two women, who had also been severely beaten, apparently fainted. On regaining consciousness, they were reportedly stretched out on a stove with a 130-pound millstone across their backs and violently beaten on the sensitive parts of their bodies. They were also allegedly strung up by their feet and beaten in that position. A 12-year-old child is said to have been violently struck on the head and then tossed around like a balloon. The next day, according to reports, the victims were taken to the Taoyuan police station and then to the Public Security Bureau before being sent back to Taoyuan, where they were allegedly detained for a week in harsh conditions.

2. Harassment of Catholics in China

Father Joseph Chen Yungtang, aged 75, of Shanghai, was allegedly sentenced on 22 March 1983 to 11 years' imprisonment for his loyalty to the Vatican and for having maintained contacts abroad and organized independent religious activities, including the distribution of underground religious literature. Apparently he had already been arrested in 1955 and sentenced in 1960 to 15 years' imprisonment, but not released until 1979. At that time, it is said, he was authorized to take up residence in Shanghai and receive foreign visitors, a fact which was to contribute to his subsequent rearrest.

Father Joseph Chan Rongkui, aged 28, of the Yixiang diocese, Hebei province, was reportedly arrested at Dingxian railway station on 14 December 1990. In March 1993 he was still being detained. Charges unknown.

Father Peter Xingang Cui, a priest serving in the village of Donglu, Qingyuan county, Hebei province, was allegedly arrested on 28 July 1991.

Father Fangzhan Gao, of the diocese of Yixian, Hebei province, is said to have been arrested in 1991 by plain-clothes police on the outskirts of the village of Shizhu, in Dingxing county.

Father Xinsan Li, of the diocese of Anguo, Hebei province, and Father Zhongpei, of the same province, are reportedly two of the priests who were to have been released by the Chinese authorities in March 1993. They have apparently not been seen again at their respective domiciles. It is said that they were sentenced to three years' re-education through labour and have been detained in a labour camp at Tangshan since their arrest in December 1990.

Father Haiqing Liao, aged 63, of the diocese of Yujiang, Jiangxi province, was allegedly arrested, for the fourth time, on 16 August 1992 by some 20 members of the Political Security Bureau and the Religious Affairs Bureau while celebrating mass at about 6.30 a.m. at his home in Fuzhou before the eyes of over 200 worshippers crammed into his house and around it. Already twice sentenced, before 1980, to 8 to 5 years' imprisonment respectively, he was reportedly ordained a priest shortly before being rearrested on 19 November 1981 and given a further 10-year sentence. Released in July 1991, he was allegedly detained for a time at Nanchang Prison No. 4.

Father Heping Liu, aged 28, was reportedly arrested on 13 February 1991 at his home in the village of Shizhu, Dingxing county, Hebei province. There has apparently been no news of this priest, who had allegedly already been arrested once on 4 June 1990. From the same province, Father Paul Shimin Liu, aged 32, was reportedly arrested at Xiefangying, Xushui county, on 14 December 1990, while Father Ma Zhiyuan and four seminarists are said to have been arrested on 12 December 1991 at Houzhuang in the same country. The fate of Father Guojun Pei, of the diocese of Yixian, and of deacon Ma Shunbao, aged 42, arrested on 29 January and 6 November 1991 respectively in the province of Hebei, is still unknown.

Father Zhenping Pei, a young Trappist priest, who was apparently trained outside the fold of the official Chinese Catholic Church, was allegedly arrested on 21 October 1989 in the village of Youtong, Luancheng county, Hebei province, where he lived and worked. According to reports, he was sentenced to an indefinite term and in March 1993 was still being detained.

Bishop Cosmas Enxiang Shi, aged 71, of the diocese of Yixian, was reportedly arrested in mid-December 1990, detained by the Public Security Bureau of Xushui county and sent for a month of 'study sessions' to Handan, since when apparently all trace of him has been lost.

Several Catholic laymen from Baoding, Hebei province, have allegedly been arrested. They include Guohui Shi, Dapeng Zhang and his wife Zhongye Zhao, all three said to have been arrested in mid-December 1990. Zhang was reportedly sentenced to three years' re-education through labour, while his wife was released after three months' detention, arrested once again in 1992 and sentenced to the same term as her husband. During the interval between her two periods of detention she was allegedly banned from working, and was also made to pay for her husband's bed and board in prison.

Father Danian Wang, aged a little over 70, and his two sisters were allegedly arrested in June or July 1992 and accused of illegal missionary activities in Suzhou region, Jiangsu province. Though the two women were released on 26 August, Father Wang is apparently still being detained by the Changsu or Suzhou Public Security Bureau.

Although on the list of prisoners who were to have been freed according to the announcement made by the Chinese authorities in March 1993, Father Jiansheng Wang, aged 40, has reportedly still not reappeared. Following his arrest on 19 May 1991, he is apparently still serving his sentence of three years' re-education through labour at the Xuanhua detention centre, Hebei province.

Tongsheng Wang, a Catholic layman aged 56, detained at the Chengde re-education centre, Hebei province, after being arrested on 23 December 1990 and sentenced to three years' re-education through labour, had still not returned home in May 1993 despite the promise made by the authorities in March of the same year to release him.

The same apparently applies to Father Jingyi Wei, a priest aged about 30, of the diocese of Yixian, Hebei province, who in May 1993 had not reappeared. Arrested in August 1990 at Harbin, Heilongjiang, he was reportedly sentenced, in March 1991, to three years' re-education. His ordination at Baoding in the early 1980s was apparently never recognized by the official Chinese Catholic Church.

Two priests, Father Xu Guoxin and Father Shixiang Xiao, aged 56, respectively, of the dioceses of Langfang and Yixian, Hebei province, were reportedly arrested in December 1991. The former is said to be serving a three-year re-education sentence, while it is thought that the latter is probably the priest who disappeared when on his way to Shandong province on 20 October 1989.

Three Catholic laymen, Youzhong Zhang, Guoyan Zhang and Youshen Zhang, arrested in 1991, were to have been among the prisoners whose release had been announced by the Chinese Government. In May 1993 they had still not returned home. It is believed that Guoyan Zhang has been sentenced to three years' re-education through labour for refusing to join the Catholic Patriotic Association. Youshen Zhang, for his part, is allegedly still in prison. Sentenced without trial to three years' re-education through labour on 2 July 1991 for having written an article criticizing the above-mentioned Association, this retired publisher is reportedly being detained at the Hengshui labour camp. The charges against him include counter-revolutionary activities directed against the Chinese Communist Party and Government. Following his arrest in March 1991 the police allegedly ransacked Youshen Zhang's home, confiscating prayer-books and hymnals. He is said to have gone for a long time without any visits by his family and to have endured particularly harsh conditions in the place where he was first detained before being transferred to Hengshui. His health has allegedly been severely affected thereby.

On the occasion of the funeral of Bishop Fan Xueyan, the circumstances of whose death have already been related in a previous report (E/CN.4/1993/62), some 10,000 Catholics reportedly assembled at Wangting, the Bishop's native village, in Dingxing County, Hebei province, despite the proclamation of martial law by the authorities in four dioceses of that province and the posting of troops in the vicinity of the village. The population of Wanting are said to have been warned by loudspeaker that they would be heavily fined if they had guests to stay for the night after the funeral. Many Catholics who had made the journey by tractor, bicycle or motor cycle allegedly had their means of transport confiscated and were fined.

(a) Chinese Catholics who have died in custody or who are gravely ill

Bishop Liu Difen, of the diocese of Anguo, Hebei province, who had disappeared in December 1990 at the age of 78, reportedly died on 14 November 1992 from a cerebral embolism and hypertension. A fortnight before his death, according to reports, a delegation from the Religious Affairs Bureau visited his family to inform them of the Bishop's poor state of health and ask them to take care of him. Apparently his relatives assented immediately and offered to go and fetch him, but the officials answered that they would arrange to have the Bishop brought home. A week later his nephews were reportedly apprised of his worsening state of health and of the need to convey him immediately from the Kuancheng district hospital, where he then was, to their home 500 kilometres from there.

After travelling all night, the nephews reportedly found their uncle already unconscious and urgently in need of oxygen before they could undertake the return trip. Allegedly, the hospital demanded such a large sum of money for supplying the oxygen that one of the nephews turned around to go back to his village, hire a car, get a doctor to come with him bringing an oxygen tent, and again make the outward trip. In the meantime, according to the reports, Bishop Liu had breathed his last. When finally the nephews obtained permission to bring home their uncle's remains, they allegedly found many untreated wounds on his back, on his left shoulder and under his left armpit. They are said to be convinced that the Bishop's death was caused by ill-treatment. The funeral reportedly took place in the presence of some 3,000 Catholics, 14 priests and a bishop not belonging to the official Catholic Church.

Grave concern is reportedly being expressed about the fate of Bishop Jianzhang Chen, who disappeared on 13 December 1990 from his residence in Xiefangying, Xushui County, and of whom there has since been no news. The Bishop, aged over 70, was allegedly first sent to a 'study camp' and then transferred, a year later, to an old persons' home apparently run by the Catholic Patriotic Association. Despite assurances given by the authorities to the Bishop's family that he had done nothing illegal and was free, it seems that his relatives were unable, in January 1993, to get in touch with him. The Bishop is said to be diabetic and paralysed on the right-hand side as a result of a cerebral haemorrhage, and therefore totally dependent on the care perhaps administered to him under 'strict surveillance' in an institution for aged persons.

Bishop Paul Shuhe Liu, aged 69, second bishop of Yixian, Hebei province, is reportedly suffering from a very serious kidney ailment and not receiving the care his state of health requires. Sentenced in October 1988 to three years' re-education through labour for possessing a typewriter and two copies of 'illegal' sermons, Bishop Liu is said to have been temporarily released to receive the medical care he required for cirrhosis of the liver. Placed under restricted residence until mid-December 1990, he was reportedly then taken to a re-education centre to finish his sentence, which was due to end in December 1991. Since then, according to reports, his family have applied in vain to the Public Security Bureau to be allowed to visit him and obtain his release. In the spring of 1992, it is said, the Bishop finally gave his guards the slip and joined the underground. He is reportedly now in hiding.

(b) Chinese Catholics who have been released but are being kept under strict surveillance

The following is a list of bishops most of whom were allegedly arrested after the Clandestine Bishops' Conference held in November 1989. It is said that they were released recently but that they are often kept under strict surveillance by the authorities or subject to restricted residence.

Auxiliary Jesuit Bishop Joseph Zhongliang Fan, aged 73, acting bishop of Shanghai, is said to have been released in August 1991 and subjected to restricted residence in the outskirts of the town after having spent 15 years in prison (1967 to 1982). He is allegedly kept under surveillance by 2 police officers 24 hours a day, prohibited from travelling and subjected to frequent questioning and intimidation. Moreover, at least once or twice a month he is allegedly answerable to the Public Security Bureau for his actions and the persons he meets.

Bishop Wenzhi Guo, aged 73, bishop of Harbin, Heilongqiang province, is allegedly denied permission to leave Qiqhar, his village of origin. He was reportedly arrested on 14 December 1989 and released in March 1990. It is said that he has already been imprisoned on two occasions, namely, from 1954 to 1964 and from 1966 to 1985, in a labour camp in the Xinjiang autonomous region.

Bishop Bartholomew Chengdi Yu, aged about 73, secretly ordained bishop of the diocese of Hangzhong, Shaanxi province in 1981, was allegedly arrested in December 1989 together with his brother, Father Chengxin. Loyal to the Vatican, it is said that he was released a few months later and has since then been subject to restricted residence at Chengdu.

Bishop Guoyang Hou, whose title of bishop is not officially recognized in Chongqing, Sichuan province, is said to have been released at the beginning of 1991 following his arrest in January 1990. His movements are allegedly restricted. He is said to be accused of having incited a group of persons to participate in demonstrations in Sichuan and having published and distributed copies of the Bible without authorization.

Bishop Liren Jiang, aged 80, of Hohhot, inner Mongolia, was allegedly imprisoned from the end of 1989 to the beginning of 1991 after having secretly been ordained bishop in June 1989. Since his release he has been kept under police surveillance and prevented from leaving his village.

Bishop Joseph Side Li, unrecognized bishop of Tianjin since 1989, aged about 60 and in poor health, was allegedly released in May 1992 after spending several weeks in prison and placed under strict surveillance in the village of Liangzhuang, Ji County. It is said that he spent 18 months in prison between 1989 and 1991 without being charged and that his detention conditions were bad.

Bishop Mathias Zhensheng, aged 73, second bishop (not officially recognized) of the diocese of Tianshui, Gansu province, is allegedly no longer in prison, although his movements are strictly supervised. It is reported that he was sentenced to 10 years' imprisonment in 1984.

Bishop Weili Song, aged 76, unrecognized bishop of the diocese of Langfang, Hebei province, was reportedly detained on two occasions between December 1992 and the beginning of March 1993 for a period of several weeks. It is said that while in prison he was forced to study the country's religious policy and the role played by political organizations and also to engage in self-criticism in respect of the Vatican. It is said that since April 1993 he has apparently been performing some of his religious functions although his freedom of movement is restricted.

Bishop Casimir Milu Wang, was allegedly paroled in April 1993 and returned to his home in Ganggu district, Gansu province, although his freedom of movement is restricted. It is said that the bishop was arrested in 1983 and sentenced in 1985 by the Intermediate Court of Tianshui to 10 years' imprisonment and 4 years' deprivation of his political rights, as well as to the confiscation of some of his belongings. He was reportedly detained in several labour camps. The charges against him include the fact that he had allegedly ordained priests in secret and had openly criticized the article of the Constitution that prohibits religious institutions from having connections abroad, the Catholic Patriotic Association and interference by the authorities with the performance of religious rites. The bishop was allegedly imprisoned during the Cultural Revolution for having proclaimed his faith. He was released in 1979 and arrested once more in 1981 before being again released. He is allegedly known for having preached the Gospel to his fellow detainees.

Father Francis Yijun Wang, aged 75, Vicar-General of the diocese of Wenzhou, Zhejiang province, was allegedly released on 21 May 1992 but it is said that he is confined to his village. Although he is allowed to celebrate mass, it is reported that he cannot meet foreigners. It is said that he was sentenced to three terms of imprisonment, from 1957 to 1962, from 1981 to 1990, then released, but arrested almost immediately once again, and allegedly sentenced on 5 February 1990 to three years of re-education through labour. His most recent sentence is said to be due to the fact that he had refused to repent of having maintained contacts with the unrecognized Catholic Church of Wenzhou and had urged Christians to oppose the religious policy of the authorities. Father Wang has allegedly spent a total of over 15 years in prison.

Father Joseph Dechen Jin, aged 72, Vicar-General of the diocese of Nanyang, Henan province, was allegedly arrested in December 1981 and sentenced on 27 July 1982 to 15 years' imprisonment and 5 years' deprivation of his political rights. It is also alleged that he was released on parole in May 1992 when his state of health was precarious and that he is subject to restricted residence in his village of Jinjiajiang, near Nanyang. He was allegedly detained in the third provincial prison of Yuxian, near Zhengzhou, at Henan, and accused of opposing abortion and birth control.

Father Zhemin Su, aged 60, accused of having 'organized and participated in illegal activities', was allegedly released on parole at Baoding, Hebei province, where he lives although he does not enjoy freedom of movement. Arrested on 17 December 1989 when he was appointed Vicar-General of the diocese of Baoding, he was reportedly sentenced to three years of re-education through work on 21 May 1990 for having participated in the Clandestine Bishops' Conference in 1989. Father Su has allegedly spent two periods in prison, from 1959 to 1975 and from 1982 to 1992. It is said that members of his family have been unable to visit him since his release.

Father Anthony Zhang Guangyi, was allegedly arrested on 11 December 1989 at the end of a religious meeting because of his loyalty to the Vatican and then imprisoned. It is reported that he was released in June 1990 owing to the precarious state of his health but remained subject to restricted residence and freedom of movement.

Father Binzhang Huo, aged 76, Vicar-General of Baoding, Hebei province, was allegedly arrested in 1983 together with his superior, Bishop Fan Xueyan, and sentenced to 10 years' imprisonment for ordaining priests in secret and maintaining contacts abroad. He was a Catholic who was loyal to the Vatican. It is uncertain whether Father Huo is still alive. If so, it is possible that he is being held in the prison of Shijzhuang, Hebei province, or subject to house arrest.

Father Vincent Hongsheng Zhu, aged 78, a Jesuit priest who is allegedly subject to restricted residence, probably in Shanghai; his state of health is precarious after having twice been imprisoned, namely, from 1960 to 1978 and from 1981 to 1988, for his loyalty to the Vatican, his contacts abroad and his studies in France, Ireland and the United States.

3. Religious intolerance against Tibetans

(a) Cases of Tibetan monks and nuns allegedly arrested before the 1992 demonstrations

Jamphel Changchup, aged 29, of Toelung Dechen, monk at Drepung monastery; sentenced to 18 years' imprisonment and at present in Drapchi prison.

Ngawang Chamtsul, aged 31, of Phenpo Lhundrup Dzong, monk at Potala monastery; sentenced to 15 years' imprisonment.

Ngawang Gyaltsen, aged 36, of Toelung Dechen, monk at Drepung monastery; sentenced to 15 years' imprisonment.

Tenpa Wangdrak, aged 58, of Lhoka Nedong, monk at Gaden monastery; sentenced to 14 years' imprisonment and at present in Damchu prison.

Jamphel Khedrup, aged 45, of Toelung Dechen, monk at Drepung monastery; sentenced to 18 years' imprisonment.

Ganden Tashi (Lhundrup Kelden), monk at Ganden monastery; allegedly arrested in 1988 during a demonstration. It is said that at the time of his arrest he was beaten unconscious and suffered serious head injuries. Allegedly sentenced to three years' imprisonment and forced labour, during which his state of health deteriorated. Said to have been sentenced once again to nine years' additional imprisonment for having attempted to escape with two other prisoners who, it is reported, were executed. At present said to be paralysed from head to foot.

Ngawang Yangkyi, nun at Tsamkhung monastery in Lhasa, who was allegedly arrested by the Chinese police for taking part in a demonstration during which she shouted slogans in the street. Initially detained in Drapchi prison, she was then transferred to the people's hospital in Lhasa owing to the ill-treatment she experienced during long periods of questioning in the course of her detention. Her state of health is allegedly a source of serious concern.

Lhundup Kalden (Tashi), aged 25, monk at Gaden monastery, was allegedly arrested on 5 March 1988 on the last day of the Great Prayer Festival during mass Tibetan demonstrations in favour of independence. After being tortured in the course of questioning over a period of nine months, he was allegedly sentenced to three years' imprisonment and re-education through work and deprived of his political rights for a period of one year. It is said that he was then taken to Drapchi prison on 6 March 1989 to serve his sentence. On 17 May 1990 he was allegedly sentenced to a further term of nine years' imprisonment for participating in preparations for an escape. Following this sentence, Lhundup Kalden was allegedly chained by the wrists and ankles for a period of one year and seven months and forced to work in that condition. At the time of his arrest he allegedly suffered severe head injuries. As he failed to receive the necessary care during his detention it is said that one day he fell down because of his condition. Eventually taken to the people's hospital in Lhasa, he was placed in the intensive care unit and then transferred to the Tibetan Medical Centre (Lhasa Mentsikhang). His state of health allegedly continues to be a source of serious concern to his family.

(b) Cases of Tibetan monks and nuns arrested during the demonstrations of February and May 1992

On 29 October 1992, the Tibetan monks and nuns listed below were allegedly sentenced by the Chinese authorities to terms of imprisonment ranging from two to nine years as well as deprivation of their political rights for periods of two to four years.

(i) Eleven young monks or novices from Dunbhu Tsenkhor monastery:

Dawa, aged 20.

Migmar Tsering, aged 17, of Chidhe Shol, sentenced to seven years' imprisonment.

Migmar Gyaltsen.

Migmar, aged 21, from Namyal Shol.

Gelong Tsering, aged 26, from Namyal Shol.

Lhakpa Tsering, from Chidhe Shol.

Tsering, aged 20, from Chidhe Shol, sentenced to five years' imprisonment.

Shilog Genpa, aged 20, from Chidhe Shol.

Sonam Choephel, aged 12, sentenced to two years' imprisonment.

Phurbu Tashi, aged 14, sentenced to five years' imprisonment.

Jampel Dorje, aged 15, sentenced to nine years' imprisonment.

(ii) Other monks and nuns:

Lobsang Dorje (Kelsang Wangdu), aged 20, from Phenpo Lhundup, retired monk from Phurchok; sentenced to nine years' imprisonment and four years' deprivation of his political rights.

Lobsang Sherab (Kelsang Lhundup), aged 20, retired monk from Phurchok; sentenced to seven years' imprisonment and three years' deprivation of his political rights.

Thupten Kelsang (Penap), from Toelung Tso-med; sentenced to six years' imprisonment and two years' deprivation of his political rights.

Lobsang Lhudup (Palden), aged 20, from Lhundup Dzong, retired monk from Phurchok; sentenced to seven years' imprisonment and three years' deprivation of his political rights.

Ngawang Tenzin, from Lhundup Dzong, nun at Chupsang convent; sentenced to five years' imprisonment and two years' deprivation of her political rights.

Gyaltsen Sherab (Rinchen Dawa), aged 25, from Lhundup Dzong, nun at Chupsang convent; sentenced to five years' imprisonment and two years' deprivation of her political rights.

Lobsang Dolma (Dawa Saldon), aged 22, from Toelung Dechen Dzong, nun at Mijungri convent; sentenced to seven years' imprisonment and three years' deprivation of her political rights.

Tinley Choezom (Gog-kyed), aged 18, from Maldro Gungkar, nun at Mijungri convent; sentenced to five years' imprisonment and two years' deprivation of her political rights.

Phuntsok Yangkyi (Mingdron), aged 19, from Taktse Dzong, nun at Mijungri convent; sentenced to five years' imprisonment and two years' deprivation of her political rights.

Lobsang Choedrak (Thupten Norbu), aged 18, monk at Kah-chen monastery; sentenced to five years' imprisonment and two years' deprivation of his political rights.

Phuntsok Ziched (Penpa), aged 24, from Lhundup, monk at Drepung monastery; sentenced to eight years' imprisonment and three years' deprivation of his political rights.

Phuntsok (Tenzin), aged 21, from Za-sa, monk at Drepung monastery; sentenced to eight years' imprisonment and three years' deprivation of his political rights.

Phuntsok Legsang (Penpa), aged 20, from Dhamshung Dzong, monk at Drepung monastery; sentenced to six years' imprisonment and two years' deprivation of his political rights.

Phuntsok Namgyal (Paldhen), aged 22, from Lhundup Dzong, monk at Drepung monastery; sentenced to six years' imprisonment and two years' deprivation of his political rights.

Ngawang Lhasang (Jordhen), aged 23, from Lhundup Dzong, monk at Drepung monastery; sentenced to five years' imprisonment and two years' deprivation of his political rights.

Ngawang Lungtog (Tobgyal), aged 19, from Lhundup, monk at Drepung monastery; sentenced to five years' imprisonment.

Ngawang Sothar (Penpa), aged 23, from Toelung Dechen Dzong, monk at Drepung monastery; sentenced to five years' imprisonment.

Ngawang Tinley (Penpa Tsering), aged 27, from Lhundup Dzong, monk at Drepung monastery; sentenced to four years' imprisonment.

Phuntsok Dadrag (Tashi Norbu), aged 17, from Toelung Dechen, monk at Drepung monastery; sentenced to four years' imprisonment.

Phuntsok Samten (Tsering Wangdu), aged 20, from Dhamshung, monk at Drepung monastery; sentenced to four years' imprisonment.

Ngawang Choeshe (Choeka), aged 23, from Lhundup Dzong, monk at Drepung monastery; sentenced to three years' imprisonment.

Tinley Choeden (Samdup), aged 21, from Lhundup Dzong, monk at Drepung monastery; sentenced to three years' imprisonment.

Tinley Tenzin (Chileg), aged 21, from Toelung Dechen, monk at Drepung monastery; sentenced to three years' imprisonment.

Jampa Tenzin (Kharab Gyatso), aged 21, from Lhundup Dzong, monk at Gaden monastery; sentenced to two years' imprisonment.

Ngawang Khedup (Tenzin Nyima), aged 21, from Maldro Gungkar, monk at Gaden monastery; sentenced to two years' imprisonment.

Lobsang Ngawang (Nyima), aged 20, probably monk at Nechung monastery.

Kelsang Dawa, aged 21, from Toelung Dechen, monk at Tsomed monastery; sentenced to five years' imprisonment.

Ngawang Khedup (Dawa), aged 24, from Toelung Dechen, monk at Drepung monastery; sentenced to six years' imprisonment.

Ngawang Palgon (Yonten), aged 23, from Toelung Dechen, monk at Drepung monastery; sentenced to five years' imprisonment and two years' deprivation of his political rights.

Ngawang Phuntsok (Woeser), aged 21, from Toelung Dechen, monk at Drepung monastery; sentenced to five years' imprisonment.

Penpa, aged 23, from Gyangtse; sentenced to two years' imprisonment and three years' deprivation of his political rights.

Ngawang Zoepa (Tsering), aged 25, from Rimpung Dzong, monk at Rong Jamchem monastery; sentenced to three and one half years' imprisonment.

Norgye, aged 23, from Rimpung Dzong, monk at Rong Jamchen monastery; sentenced to three and one half years' imprisonment.

(c) Cases of Tibetan monks and nuns arrested during the demonstrations of February, March and June 1993

On 25 February 1993 a group of Buddhist nuns allegedly organized a demonstration in the centre of the Tibetan district of Lhasa. It is said that four nuns were arrested.

During another incident, on 9 March 1993, six monks from Ganden monastery allegedly demonstrated in Barkor Street next to the Jokhang temple in the centre of the Tibetan district. It is reported that three of them were arrested by the police. One of the monks who was carrying the Tibetan national flag was allegedly beaten. Seven other monks were allegedly arrested that day in the same area.

Two incidents, on 11 and 13 March 1993, on Barkor Street allegedly involved a dozen monks who, according to some sources, were from the Ganden monastery and were arrested by the police.

On 1 June 1993, three monks from Drepung monastery who were chanting 'free Tibet' were savagely set upon by the police, who eventually led them off together with two young women who had tried to defend them. On 4 June 1993, five monks and two nuns from Toelung and Nethang were allegedly arrested in the Barkor area.

In June 1993, 19 nuns from Garu convent were allegedly arrested. Shortly afterwards it was learned that 12 other nuns from that convent had reportedly been sentenced to long prison terms (up to six years in some cases) for participating in a procession around the Potala Palace in 1992.

On 20 June 1993, about 100 monks were allegedly arrested at Kirti monastery in the Ngaba region. It is said that some of them were tortured during their detention."

9. Investigation concerning cases raised in Rapporteur's November 1993 communication (G/SO 214 (56-7)):

"Zhang Ruiyu, female, age 55, from Putian County, Fujian province. University level education. In accordance with the law, was sentenced in September 1993 by the Putian Municipal Intermediate People's Court to four years' imprisonment and stripped of her political rights for two years, for counter-revolutionary activities. Released on probation in May 1994.

Zheng Yunsou, male, age 60, from Wei Shan County, Shandong province, primary school level education. In accordance with the law, was sentenced in October 1992 by the People's Court of Wei-Shan County, Shandong province, to 12 years' imprisonment for disruption of public order and fraud. He is serving sentence with the Jinan Reform-through-Labour Detachment, and is in good health.

Jamphel Changchup, male, a lama from Drepung monastery in Lhasa. In accordance with the law, was sentenced on 30 November 1989 by the Lhasa Municipal Intermediate People's Court to 19 years' imprisonment and stripped of his political rights for 5 years for his involvement in the illegal activities of an illegal separatist organization in January 1989, and for collecting State secrets.

Tenpa Wangdrak, male, a lama from Ganden monastery. In accordance with the law, was sentenced in January 1989 by the Lhasa Municipal Intermediate People's Court to 14 years' imprisonment for involvement in separatist activities and for participating in the Lhasa riots on 3 May 1988.

Ngawang Gyaltsen, male, a lama from Drepung monastery in Lhasa. In accordance with the law, was sentenced in November 1989 by the Lhasa Municipal Intermediate People's Court to 17 years' imprisonment, and stripped of his political rights for 5 years for involvement in the separatist activities of an illegal organization, collecting State secrets, crossing the border illegally, and participating in the Lhasa riots in March 1993.

Ganden Tashi or Lhundrup Kelden, male, age 25, a lama from Ganden monastery. In accordance with the law, was sentenced by the Lhasa Municipal Intermediate People's Court to three years' imprisonment for counter-revolutionary activities. While serving sentence he organized an escape from prison, and was then sentenced to nine years and six months of imprisonment in accordance with the law. Released on bail for medical treatment on 31 March 1993.

Lobsang Dorje, male, age 21, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Pu-jiao Temple. In accordance with the law, was sentenced to nine years' imprisonment by the Lhasa Municipal Intermediate People's Court for counter-revolutionary activities. Now serving sentence in the Tibet Autonomous Region prison.

Lobsang Lhudup, male, age 21, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Pu-jiao Temple. In accordance with the law, was sentenced to seven years' imprisonment by the Lhasa Municipal Intermediate People's Court for counter-revolutionary activities. Now serving sentence in the Tibet Autonomous Region prison.

Dhuntsok Ziched, male, age 25, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to eight years' imprisonment by the Lhasa Intermediate People's Court for counter-revolutionary activities. Now serving sentence in the Tibet Autonomous Region prison.

Phuntsok Legsang, male, age 21, ethnic Tibetan from Dangxiong County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to six years' imprisonment by the Lhasa Intermediate People's Court for counter-revolutionary activities. Now serving sentence in the Tibet Autonomous Region prison.

Phuntsok Namgyal, male, age 23, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to six years' imprisonment by the Lhasa Intermediate People's Court for counter-revolutionary activities. Now serving sentence in the Tibet Autonomous Region prison.

Ngawang Lbasang, male, age 24, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to five years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Ngawang Lungtog, male, age 20, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to five years's imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Ngawang Sothar, male, age 24, ethnic Tibetan from Dui-long-De-Qing County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to five years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in Tibet Autonomous Region prison.

Phuntsok Samten, male, age 21, ethnic Tibetan from Dangxiong County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to four years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Ngawang Choeshe, male, age 24, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to three years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Jampa Tenzin, male, age 21, ethnic Tibetan from Linzhou County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to two years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities. Served sentence in the Tibet Autonomous Region prison: released on 12 May 1994, after serving his full prison term.

Kelsang Dawa, male, age 21, ethnic Tibetan from Dui-long-De-Qing County, Tibet Autonomous Region. A lama from Cuomai Temple. In accordance with the law, was sentenced to five years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Ngawang Khedup, male, age 25, ethnic Tibetan from Dui-long-De-Qing County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to six years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Ngawang Palgon, male, age 24, ethnic Tibetan from Dui-long-De-Qing County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to five years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Ngawang Phuntsok, male, age 22, ethnic Tibetan from Dui-long-De-Qing County, Tibet Autonomous Region. A lama from Drepung monastery. In accordance with the law, was sentenced to five years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Lobsang Dolma, female, age 23, ethnic Tibetan from Dui-long-De-Qing County, Tibet Autonomous Region. A nun from Michungi nunnery. In accordance with the law, was sentenced to seven years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Tinley Choezom, female, age 19, ethnic Tibetan from Me-Zhu-gong-Ka County, Tibet Autonomous Region. A nun from Michungi nunnery. In accordance with the law, was sentenced to five years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; now serving sentence in the Tibet Autonomous Region prison.

Phuntsok Yangkyi, female, age 20, ethnic Tibetan from Dazhi County, Tibet Autonomous Region. A nun from Michungi nunnery. In accordance with the law, was sentenced to five years' imprisonment by the Intermediate People's Court of the Tibet Autonomous Region for counter-revolutionary activities; served sentence in the Tibet Autonomous Region prison. Died of tubercular encephalitis on 4 June 1994. Medical treatments proved in vain.

Li Jiayao, male, age 35, from Guangdong province. In accordance with the law, was assigned by local re-education through labour committee to three years of labour re-education for violation of Chinese customs regulations and distribution of prohibited articles. Was released in March 1994, before serving his full sentence.

Xu Guoxin, male, from Langfang, Hebei province. In accordance with the law, was assigned in December 1991 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released before serving his full sentence in May 1994.

Chen Zhuman, male, age 49, from Putian County, Fujian province. In accordance with the law, was assigned in December 1991 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in May 1994 before serving his full term.

Zhang Yuezhi, male, age 31, from Shouguang County, Shangdong province. In accordance with the law, was assigned in February 1992 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in May 1994 before serving his full sentence.

Yang Peizhi, male, age 34, from Shouguang County, Shangdong province. In accordance with the law, was assigned in February 1992 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in May 1994 before serving his full sentence.

Xue Zhihe, male, age 51, from Shouguang County, Shangdong province. In accordance with the law, was assigned in February 1992 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in May 1994 before serving his full sentence.

Wang Jiansheng, male, age 33, from Zhangjiakou, Hebei province. In accordance with the law, was assigned in May 1992 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in July 1993 before serving his full sentence.

Zhang Guoyan, male, age 49, from Baoding, Hebei province. In accordance with the law, was assigned in July 1991 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in March 1993 before serving his full sentence.

Zhang Youshen, male, age 66, from Baoding, Hebei province. In accordance with the law, was assigned in July 1991 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in March 1993 before serving his full sentence.

Wei Rengyi, male, age 35, from Shulan County, Jilin province. In accordance with the law, was assigned in December 1990 by local re-education through labour committee to three years of labour re-education for involvement in activities endangering the national interest and disruption of public order. Released in December 1992 before serving his full sentence.

Zhang Dapeng, male, age 75, from Baoding, Hebei province. In accordance with the law, was assigned in December 1991 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in July 1993 before serving his full sentence.

Wang Tongsheng, male, age 56, from Qingwan County, Hebei province. In accordance with the law, was sentenced in August 1991 by local re-education through labour committee to three years of labour re-education for disruption of public order. Released in May 1993 before serving his full sentence.

Xu Yongze, male, age 53, from Zhenping County, Henan province. In accordance with the law, was assigned in April 1988 by local re-education through labour committee to three years of labour re-education for violation of the national regulations on registration of public groups, establishing an illegal organization, inciting people to disrupt public order, and resistance to re-education. Released from labour re-education.

Lai Manping, male, age 21, a peasant from the district of Zhangjiatan, Ankang City, Shanxi province. On 27 March 1994, Lai and two others organized illegal meetings at Taoyuan village, in the Luhe district of Xunyang County, seriously disrupting public order. In accordance with the law, public security officials interrupted and curtailed the meeting. No one was arrested. Afterwards, Lai was beaten up by disgruntled local people; medical examinations in hospital revealed only minor injuries. Lai died suddenly on 6 April. Medical diagnosis of the cause of death is respiratory failure from severe pulmonary cardiac disease.

Liu Difen, male, born in 1914, from Renqiu, Hebei province. In 1991, the local government, concerned at Liu's advanced age and bad health and the lack of anyone to look after him, provided for him in his old age. Liu died of illness on 14 November 1992 at age 78.

Shi Enxiang, male, age 70, from Xuxui County, Hebei province. Catholic priest. In December 1990, the local government, concerned at Shi's advanced age and the lack of anyone to look after him, provided him with favourable living conditions and good medical care on humanitarian grounds.

Liu Shuhe, male, age 74, from Yi County, Hebei province. Catholic priest. Since October 1991 the local government, concerned at his advanced age and feeble health and the lack of anyone to look after him, has provided him with favourable living conditions and good medical care on humanitarian grounds.

Fan Xueyan, male, from Jingwan County, Hebei province. Former bishop of Boading district. In 1983, Fan colluded with foreign forces, endangering national sovereignty, and was sentenced to 10 years' imprisonment. Released on probation in 1987. The local government of Hebei province provided for him in his old age beginning in 1990.

Fan was hospitalized in February 1992 because of pneumonia and senile constipation. His condition deteriorated in April, emergency medical measures proved ineffective and he died, age 86.

Chen Jianzhang, male, age 72, from Jingwan County, Hebei province. Catholic priest. Since December 1992, the local government, concerned at Chen's advanced age and the lack of anyone to look after him, has provided him with favourable living conditions and good medical care on humanitarian grounds.

Fei Zhongxun (Fei Junzhe), male, age 76, former factory worker in the City Construction Department, Shanghai.

Address: No. 1, Alley 76, Fu-Xing West Road, Shanghai.

In accordance with the law, was sentenced to 15 years' imprisonment (from 18 August 1983 to 17 September 1998) by the Shanghai Municipal Intermediate People's Court for espionage. He is serving his sentence in a Shanghai prison, and is in good health.

The following 13 persons are under investigation by local security organs in accordance with the law for illegal activities. No action has yet been taken.

Shi Guohui, Xie Meshan, Gao Fangzhan, Liao Haiqing, Lin Heping, Liu Chiming, Zhao Zhongyue, Chen Yuntang, Fei Zhanping, Zheng Yulan, Guo Ruiping, Zhu Zizhen and Hou Jingting.

Claims that Fan Zhongliang, Guo Wenzhi and others are 'still under close surveillance' are not consistent with the facts.

Chen Ronggui, Ma Zhiyan, Fei Guojun, Ma Shoushan, Zhu Mei, Wang Tanian, Cui Xingqun, Zhong-Fei, Li Xingqun, Ngawang Jiucuo, Ngawang Yangjing, Dawa, Mima Ceren, Mima Jianzan, Mima, Gelong Ceren, Laba Ceren, Ceren, Shilong Ganba, Sunan Quzhe, Pubu Zhaxi, Jiangbai Duozhe, Loushang Xia-er-ba, Tudeng Gesang, Ngawang Danceng, Zianzan Xia-er-ba, Lousang Zhuoga, Ping-Cuo, Ngawang Tingli, Ping Cuo Daga, Tingli Qudiam, Tingli Danceng, Ngawang Kezhu, Lousang Ngawang, Daba, Ngawang Zeba, Nuo Zhe, etc.: because of incomplete information or incorrect transcriptions of Chinese and Tibetan names, no such persons have been traced."

CUBA

10. In reply to the communication of 31 August 1993 (E/CN.4/1994/79), the Permanent Mission of the Republic of Cuba transmitted the following information to the Special Rapporteur on 7 February 1994:

"I have the honour to refer to your note G/SO 214 (56-7) dated 31 August 1993 asking the Government of the Republic of Cuba for its views and observations concerning alleged persecution and harassment of Jehovah's Witnesses by my country's authorities.

The note in question contains a summary of alleged incidents, together with dates, that have obviously been distorted and/or completely fabricated by the source or sources that provided this fallacious information.

The entire world knows that this doctrinaire sect inculcates an anti-patriotic attitude in its members: failure to salute the national flag, failure to recognize other symbols of the homeland and refusal to receive blood transfusions. Such negative behaviour occasionally produces a feeling of rejection among the population.

Nevertheless, the Jehovah's Witnesses are able fully to exercise the rights guaranteed to the citizens of the Republic of Cuba, which include freedom of conscience and religion.

Article 55 of the Constitution in force in the country stipulates that the State shall guarantee freedom of conscience and the right of everyone to change religion or to have no religion, as well as the right to practise the religion of his choice within the bounds of the law.

However, in Cuba as elsewhere, practising a religion does not guarantee impunity to those who violate the legal and constitutional order of the State.

For years, the leaders of this sect have attempted to elude the laws in force in our country and have repeatedly, under different pretexts, prevented standards and regulations from being applied. They finally decided, on their own initiative, to close their places of worship in order to make the members of the sect and public opinion believe that the closing had been ordered by the Government and that the Jehovah's Witnesses were being persecuted by the State.

Offences are punished in Cuba independently of the religious convictions of their perpetrators, whether they are Jehovah's Witnesses or the followers of African-based religions.

The Government of the Republic of Cuba refutes the validity of the above-mentioned figures and incidents, which are totally false and/or distorted. It simply wishes to add that it is not Government policy to seize a religious object or book belonging to an individual."

SPAIN

11. In addition to its reply of 5 November 1993 (E/CN.4/1994/79, para. 47), on 7 January 1994 the Government of the Kingdom of Spain sent its observations concerning the communication of 11 October 1993 (E/CN.4/1994/79, para. 46), which had been transmitted to it by the Special Rapporteur:

"Pursuant to my letter No. 153/93 of 9 November 1993 and in order to supplement the information furnished by the Government of Spain concerning allegations of religious intolerance with respect to Spain as regards the case involving the religious movement called 'The Family', I have the honour to inform you that, in accordance with the communication from the State Attorney-General, the Public Prosecutor in Barcelona attached to the Second Chamber of the Supreme Court has filed an appeal against the acquittal decision handed down in this case."

12. On 15 March 1994, the Government of the Kingdom of Spain submitted further observations on the above-mentioned communication:

"Pursuant to my letters Nos. 153/3 of 9 November 1993 and 3/94 of 7 January 1994 and in order to supplement the information furnished by the Government of Spain concerning allegations of religious intolerance with respect to Spain as regards the case involving the religious movement called 'The Family', I have the honour to transmit herewith a report on the matter addressed to the Special Rapporteur on the question of religious intolerance from the Spanish Ministry of Social Affairs."

"Report concerning the religious movement 'The Family' prepared for the Special Rapporteur on the question of religious intolerance

Article 16 of the Spanish Constitution guarantees, among other fundamental rights, the right to freedom of ideology, religion and worship. All individuals enjoying full legal capacity, i.e. persons of full age, may exercise these rights.

Religious entities belonging to churches, faiths and communities with activities in Spain are regarded as religious and are therefore placed under the protection of the Organization Act relating to freedom of religion, but a large number of them, whose purpose is to study and experiment with psychic and parapsychic phenomena or to propagate humanist or spiritualist values and which do not have a truly religious function, fall outside the scope of that Act.

The Constitution and the Organization Act relating to freedom of religion guarantee religious entities, and hence sects, which are characterized as such, the right to exercise freedom of religion or worship without any restrictions other than those required in order that activities resulting from the expression of this freedom may be conducted with due regard for public order as protected by law, so as to preserve the right of others to exercise public freedoms and fundamental rights and to safeguard security and public health, without it being necessary to enter those organizations in any official register. In this connection, the authorities may not interfere in matters concerning the basic religious beliefs of Spaniards and may not exercise any coercion against believers who, availing themselves of their legitimate right, have made a specific choice in the matter of religion or belief.

Not only may religious entities freely exercise their activities, but they may also request to be entered in the register of religious entities kept at the Ministry of Justice. Registration is free and public and, since the procedure is tantamount to deposit of an instrument of incorporation, upon being registered, religious entities acquire legal personality.

Moreover, the Constitution itself requires the public authorities to guarantee 'the right of everyone to education, through general planning of education, with the effective participation of all parties concerned and the setting up of teaching establishments'.

Article 39 of the Constitution stipulates that children shall enjoy the protection provided for by international conventions designed to protect their rights. It should be noted in this connection that Spain has ratified the Convention on the Rights of the Child.

Article 14 of the Convention establishes the right of children to freedom of thought, conscience and religion and the right of parents and legal representatives to guide children in the exercise of that right, and further provides for a number of restrictions to the exercise of that right.

In accordance with constitutional requirements and for the protection in particular of the rights of the child, article 172 of the Civil Code, establishes the possibility for the competent public authority for the protection of minors to assume custodial responsibility for a minor who is in need of care because the parents are not properly performing their duties in respect of protection.

The competent authority is consequently required to intercede when it finds a child to be in a situation where he or she is in need of care through being exposed to possible violations of his or her rights.

Such a situation may arise for a wide variety of reasons, including cases where the minor or his or her parents belong to a particular religious movement, if within that movement violations are committed of such rights as the right to health, the right to physical integrity, the right to education and the many other rights enshrined in the Convention on the Rights of the Child.

Concern about the ill effects of certain sects on children is shared by all countries and by international organizations like the Council of Europe, which, following the European Parliament, has adopted a recommendation (Recommendation 1178 (1992)) on sects and new religious movements.

In the case of the 'Children of God' or 'The Family', the Catalan authorities considered that the fundamental rights of the children confined therein were not being respected, for which reason, acting in accordance with the law and in compliance with a court order, they authorized a search of the home belonging to the aforesaid movement.

The children were placed in welfare centres for minors, along with other children placed in the care of the Catalan authorities and no discrimination was exercised against them on the grounds that their parents belonged to a religious movement or for any other reason.

The Spanish Constitution recognizes a further fundamental right, which is the right to effective judicial protection. In the present case, several judicial bodies interceded, namely, the fourth examining court of Sabadell, the nineteenth court (domestic court) of Barcelona and the Court of Appeal of Barcelona, to which the appeal lodged by the parents of the children concerned was referred.

One of the judges, serving on the bench of the nineteenth court (domestic court) of Barcelona, fixed the schedule of visits for the parents and indeed ordered them to spend their holidays together, with supervision being exercised through a weekly visit by social workers.

Appended to this document is a report by the Generalitat of Catalonia (Social Welfare Department, Directorate of Child Welfare), which answers point by point the allegations made by the aforementioned sect to the Special Rapporteur of the Commission on Human Rights on the question of religious intolerance.

REPORT BY THE DIRECTORATE OF CHILD WELFARE (DEPARTMENT OF SOCIAL WELFARE OF THE GENERALITAT OF CATALONIA) TO THE COMMISSION ON HUMAN RIGHTS

In reply to the communication received from the Special Rapporteur, based on information brought to his notice concerning the movement 'Children of God' or 'The Family', the Directorate of Child Welfare has the honour to transmit the following information and comments:

1. The fourth examining court of Sabadell, 'following the measures (file No. 100/90) taken by virtue of the report drawn up by the 'Mozos de Escuadra' (autonomous police) of the Generalitat of Catalonia and the request by the Public Prosecutor's Department, which showed that at least 20 children under the age of 11 were living in the property situated at Castellar des Vallés (Avda. Can Piñol, No. 45, sector D, Urbanización 'Airesol'), who, according to investigations, were clearly in a situation presenting a danger to their physical and mental health, such as to make it necessary for them to be immediately admitted to an appropriate reception centre; and having taken note of the report by the Public Prosecutor's Department and the information provided in the report drawn up by the Catalan police concerning the residence and way of life of the aforesaid minors in that property, under the authority of persons believed to belong to the destructive sect known as 'Children of God' or 'Family of Love', whose activities as a sect might rank among various offences covered and punished by the Penal Code; and having regard, in addition, to the obvious risk that an extended stay in the property might entail for the physical and mental health of the aforesaid minors; taking into account the provisions of article 172 of the Civil Code and other such provisions; authorizes the police force to seize the minors immediately and to have them admitted to the appropriate reception centre and the competent child welfare agency (in Catalonia, the Directorate of Child Welfare) will of its own motion assume custodial responsibility for those children, so long as other measures have not been taken, in accordance with the law'.

2. The operative part of the above-mentioned judicial decision is reproduced below:

> 'The Mozos de Escuadra of the autonomous police of the Generalitat of Catalonia are authorized to go and round up immediately the minors, about whom nothing is known as to their identity, nationality or other personal particulars and who may be found at the private home located at Castellar des Vallés (Avda. Can Piñol, No. 45, Ubanización Airesol, Sector D) under the authority of the destructive sect known as "Children of God - Family of Love" or "Missionary Families" or "Missionary Families of Montserrat", in order to have them admitted forthwith to the "San José de la Montaña" reception centre, placing them in the hands of the Directorate of Child Welfare, Generalitat of Catalonia, which of its own motion shall assume custodial responsibility for the children, so long as no other measure has been taken, in accordance with the law.'

3. On 8 July 1990, in accordance with the above-mentioned judicial warrant, the Catalan police took away 21 minors from the property referred to and had them provisionally admitted to the San José de la Montaña Centre in Barcelona, placing them under the protection and control of the Directorate of Child Welfare, which is entrusted with the requisite powers and functions under Act No. 21/87 of 20 November amending certain articles of the Civil Code and the Civil Procedure Act in respect of family placements, adoption and other forms of protection for minors, in conjunction with Catalan legislation.

4. In accordance with the above-mentioned judicial decision and the provisions of article 172 et seq. of the Civil Code, Decree No. 332/1988 of 21 November and Decree No. 380/1988 of 1 December concerning the powers and structure of the Directorate of Child Welfare, the latter, by administrative decision, declared the minors to be in need of care and placed them under its control, granting custody to the director of a recognized centre, namely, the 'San José de la Montaña' reception centre.

This decision was notified in particular to the fourth examining court of Sabadell, the United States Consulate General in Barcelona and the Public Prosecutor's Department and, subsequently, to the parents of the minors, once their identity had been established.

5. Availing themselves of their rights under the Civil Code, the parents of the minors informed the nineteenth court of first instance (domestic court) of Barcelona of their opposition to that decision.

6. Subsequently, the second examining court of Sabadell, to which the criminal action brought by the fourth examining court of Sabadell on 2 August 1990 had been referred, instructed a psychologist and an educator from the Directorate of Child Welfare to make a diagnosis, to monitor the development and behaviour of the children and to coordinate and supervise the action of the technical team responsible for studying the case.

By a decision dated 7 September 1990, filed under No. 717/90-P, the court approved and confirmed the custodial responsibility assumed by the Directorate of Child Welfare and the placement of the minors in an institution and, in addition, fixed a schedule of weekly visits for the parents.

7. In September 1990, all the minors were transferred to the Mas Arquer reception centre in Arenys de Munt (Barcelona) so that they could be better looked after and continue their education normally.

The parents of three of the children filed a complaint with the first examining court of Arenys de Mar on 13 October 1990 for failure to comply with the duty of protection and for coercion. After taking cognizance of the reports and statements of the educators and technical and administrative staff of the centre, the judge dismissed the complaints, noting that there was no evidence and that the facts complained of had not been established.

8. On 10 July 1990, on the basis of provisions of article 172 et seq. of the Civil Code and Decrees Nos. 332 and 380/1988 concerning the powers and structure of the Directorate of Child Welfare, the Directorate of its own motion assumed custodial responsibility for the minors in question and entrusted legal custody to the director of the San José de la Montaña centre and then to the director of the Mas Arquer reception centre.

9. The parents of the minors protested against the measures taken by the Directorate of Child Welfare and expressly lodged a complaint with the nineteenth court of first instance (domestic court) of Barcelona, which instituted the required legal proceedings (case No. 510/90-DC).

On 7 September 1990, the court upheld the institutional placement decision taken by the Directorate of Child Welfare in the case of all the minors taken into care, granting the parents visiting rights (one day a week).

10. By court order of 9 July 1991 and following the request for interim measures made by the Directorate of Child Welfare, the nineteenth court of first instance (domestic court) authorized the Directorate to fix a holiday schedule for the children with their parents for the summer of 1991 and to arrange for weekly visits by social workers from the place of residence of each family, with the requirement that they report to the court in the second half of September.

On 6 November 1991, the nineteenth court delivered a court order non-suiting the parents who had challenged the measures taken against their children and confirming the decision of the Directorate of Child Welfare to assume custodial responsibility for the children, while authorizing the minors concerned to remain in the company and in the custody of their parents, under the supervision of the Directorate of Child Welfare and the Public Prosecutor's Department.

11. The parents appealed against the court decision referred to in the previous paragraph and, on 21 May 1992, the Court of Appeal of Barcelona handed down a judgement annulling the declaration of need of care and the custodial measures taken by the Directorate of Child Welfare.

12. Subsequently, on 29 June 1993, the third division of the Court of Appeal of Barcelona acquitted the accused - the parents of the minors - of the charges made by the Public Prosecutor's Department of fraud, assault and battery, unlawful setting up of a teaching establishment and unlawful association, and quashed the preservation measures previously adopted.

13. Through the Counsel of the Generalitat of Catalonia (Letrado de Generalitat de Catluña), the Directorate of Child Welfare filed an application for amparo with the Constitutional Court of the Spanish State against the judgement of the Court of Appeal of Barcelona annulling the declaration of need of care and the custodial measures adopted regarding the minors, pleading a violation of article 24, paragraph 1, of the Spanish Constitution and of the right to education enshrined in paragraphs 1 to 5 of article 27, read in conjunction with article 15 of the Constitution.

The decision of the Constitutional Court is at present awaited.

14. Annex I of this report contains general clarifications and particulars regarding any reports that the Commission on Human Rights (with responsibility for the question of religious intolerance) may have received concerning the treatment and care of the minors by the staff and institutions of the Autonomous Administration.

Annex I

The paragraph of the complaint reproduced below calls for corrections of detail and an overall rebuttal.

Twenty-two children are alleged to have been removed and detained in public welfare centres for over a year and, during this period, to have been neglected and ill-treated by the social workers. On release of the children, the Catalan authorities are alleged to have required their parents to send them to State schools and further required each family in the community to undertake to reside in their own home.

Firstly, as regards the 'detention' of the children for more than a year: the action taken by the Directorate of Child Welfare in the case of the 'Children of God' was fully in accordance with the law, since, as explained in the preceding document, it was taken at the request of the prosecutor's department of the Juvenile Court and in compliance with the requisite court orders at each stage of the proceedings. The children, whose institutionalization did not last 12 months, were allowed to receive visits from their parents and to spend weekends with their families, in both cases as soon as authorized by the competent judge.

During the children's stay in the Centre, all their rights were respected without restriction and they were able to attend the local State school, take part in activities with other children, and receive visits from school friends in the Centre expressly established for this purpose and organize parties and a variety of activities. In our view, therefore, talk of detention amounts to an outright lie.

As to ill-treatment and neglect by the social workers, the specialist teachers hired to care for the children all had the necessary qualifications; some were social workers, others had received other training and the Centre was managed by a woman educationalist from the Directorate of Child Welfare with broad experience in the educational field.

The technical team called upon to advise the judge on the final solution to be proposed frequently visited the children and examined them and in no case was there any suggestion of neglect or ill-treatment. On the contrary, the development of all aspects of the children's personalities during the months of their placement in the Centre was more than satisfactory.

The action taken by the Administration concluded with the return of the children to their parents' custody, with retention of guardianship, the Administration requiring, in accordance with the decision of the Court and the Public Prosecutor's Department, that the children should continue their schooling in official establishments (whether public or private) and that they should continue to join in activities with other children of their acquaintance (sports, hobbies, etc.).

The families were advised to live separately in order to strengthen the children's feeling of belonging to a family unit. That was merely advice, but it was followed spontaneously by all members of the group. Family therapy was also recommended, and a few families of the group accepted it spontaneously."

13. On 17 November 1994, the Special Rapporteur received the following additional information from the Spanish Government:

"In order to supplement the information, I have the honour to transmit to you the Supreme Court ruling dated 30 October 1994 rejecting the appeal by the Public Prosecutor's Department against the decision of the Provincial Court of Barcelona of 29 June 1993, which you have already received.

In Spain, the case is thus closed:

1. The measures for the protection of the minors ordered by the Generalitat of Catalonia were cancelled by the ruling of the Provincial Court of Barcelona dated 21 May 1992 and the Constitutional Court rejected the application for amparo filed against the ruling (see our communications of 5 November 1993 and 2 November 1994).

> 2. The criminal accusation against the parents of the minors was rejected by the Provincial Court of Barcelona in a ruling of 29 June 1993 that was upheld by the Supreme Court on 30 October 1994.
>
> We repeat:
>
> There has never been any violation by the Kingdom of Spain of the right to freedom of religion and there has been no discrimination on grounds of religion or belief."

GREECE

14. Further to its reply of 12 February 1993 to the communication of 9 October 1992 (E/CN.4/1994/79, para. 53), the Permanent Mission of Greece transmitted the following observations to the Special Rapporteur on 8 August 1994:

> "I have the honour to transmit to you the replies communicated to us by the Air Force General Headquarters and the Governing Body of Mount Athos concerning the case of the four evangelist officers and that of the four expelled monks mentioned in the Special Rapporteur's letter.
>
> ### A. The case of the evangelist officers
>
> The case concerns four Air Force officers:
>
> (a) Flying Officer Savvas Mandalaridis, son of Ioannis; (b) Pilot Officer Ioannis Sarandis, son of Christos; (c) Pilot Officer Demetrios Larissis, son of Stefanos; and (d) Sergeant Ioannis Vlastos, son of Spyridon.
>
> On 18 May 1992, proceedings were instituted before the Air Force Military Tribunal in Athens against the persons concerned on charges of proselytism in favour of the religious sect known as the 'Brotherhood of the Disciples of Jesus Christ of the Free Apostolic Church of the Pentecost', to which they had subjected their colleagues, mainly in army quarters, in the town of Volos. They endeavoured by persuasion, importunity and fraud to lure their colleagues into their religious movement. Proselytism as an offence is defined in article 4 of Act No. 1363/38. The persons concerned were charged with having violated article 13, paragraph 2, of the Constitution, which states that 'All known religions shall be free and their rites of worship may be freely practised under the protection of the law ... Proselytism is prohibited', in conjunction with article 4, paragraph 1, of Act No. 1363/38, and article 2 of Act No. 1672/39.
>
> By virtue of decision No. 909/92 of the Air Force Military Tribunal in Athens, Flight Sergeant Vlastos Ioannis was acquitted on benefit of doubt, but the three others were sentenced as follows: Flying Officer Mandalaridis Savvas to one year's imprisonment, with three years' suspension and, in the event of the suspension being lifted or revoked, commutation of sentence to a fine of 1,000 drachmas a day;

Pilot Officer Sarandis Ioannis to 15 months' imprisonment, with three years' suspension, and commutation to a fine of 1,000 drachmas a day; Pilot Officer Larissis Demetrios to 13 months' imprisonment, with three years' suspension, and commutation to a fine of 1,000 drachmas per day.

The persons concerned appealed and, by sentence No. 390/92, the Court reduced the sentence of imprisonment against Mandalaridis and Sarandis to 10 months, the same conditions applying as to suspension and commutation.

The Court confirmed the sentence of imprisonment of 13 months imposed on Larissis Demetrios by the court of first instance, but with suspension of three years and possible commutation to a fine. Actually, the persons concerned spent no time in prison as they were not remanded in pre-trial detention and the sentences on them were suspended for three years.

B. The case of the expelled monks

On 20 May 1992, four schismatic monks, Seraphim Babits, Ioannikkos Abernerthy (American nationals of Russian origin who had acquired Greek citizenship), Nikolaos Seveldisky, and Mitrophanes Bentiya (American nationals of Russian origin), all members of the para-ecclesiastical and schismatic organization known as the 'Russian Church outside Russia', were expelled from the skite of Prophet Eliash, a dependency of the Monastery of the Pantocrator on Mount Athos.

Background

On 20 May 1992, a Patriarchal Exarchy headed by the Metropolitan of Heliopolis and Therare, Kyr Athanasios, together with the Committee of the Holy Community, went to the skite of the Prophet Eliash for the purpose of bringing back the members who had been in breach of canonical and ecclesiastical order since 1957. Also present was the Holy Assembly of the Elders of the Monastery of the Pantocrator. It should be noted that repeated efforts had been made to no effect in the past and that the Church had on numerous occasions and through the intermediary of the Exarchies that had come to Mount Athos - the last mission of this nature being in June 1991 - emphasized the importance of a return to canonical order, but in vain. The patience of the Church having been exhausted, it was high time to put an end to this long-standing problem. For that reason the Patriarchal Exarchy, the Community Committee and the Assembly of Elders unanimously decided that the monks in question should be removed from the skite if they insisted on being unrepentant and schismatic - which proved to be the case - and proceeded to occupy the premises immediately (see above).

All efforts to persuade the monk Seraphim and the others to renounce their zealotry and to observe henceforth in perpetuity the Charter of Mount Athos and the Order of Mount Athos - in which event pardon would have been possible - failed. The monks bluntly rejected the brotherly proposal of the Holy Assembly. Following that, the Head of the

Patriarchal Exarchy, the Metropolitan of Heliopolis, Kyr Athanasios, communicated to the monks in question the unanimous decision to expel them immediately and to hand over the keys of the skite to the Father Superior.

The assistance of the Civil Governing Body of Mount Athos and of the police having been requested, the Alternate Governor arrived in situ, accompanied by a small police contingent under Lieutenant G.I. Koubouras. Having been notified of the decision, the authorities present were requested to carry it out forthwith and to expel the schismatic monks.

The Civil Governing Body and the police carried out the decision forthwith, in accordance with article 5 of the Charter of Mount Athos, after which the Holy Assembly of the Monastery of the Pantocrator decided that the skite would be occupied by a brotherhood of five monks from the Monastery of Vatopedi. The members of the brotherhood responded to the call and arrived at the skite. They were recorded in the registry of monks and assumed the administration of the skite. It was decided that the holy relics would be handed over to the new Holy Assembly (Brotherhood) after an inventory had been made by the monastery and a list drawn up and signed by the two parties. The cooperation of the lay authorities was also requested for the protection of the skite.

The above measures were approved almost unanimously by the Holy Community, which thanked the Patriarchal Exarchy and the Community Committee for the adroit handling of the issue and for the successful resolution of a situation which had long divided the body of the Church and the Community of Mount Athos (21 May).

It should also be added that, according to reliable information, Kyr Athanasios had, as in the past, suggested that the schismatic monks should be given ample time to meditate on their attitude, as they stood in error. The Prior (dikaeos) of the skite, the schismatic monk Seraphim, replied intransigently and impertinently.

After being duly notified of the decision to expel them, the persons concerned were given three hours to gather together their personal effects and then left for Ouranoupolis under police escort having previously passed the usual customs check at Daphne by order of the Alternate Governor of Mount Athos. The specific breaches of the provisions of the Mount Athos Charter (Legislative Decree of 10/16 September 1992, Official Gazette No. 309 (a)) of which the persons concerned were guilty can be summarized as follows:

Veneration of another name (that of the schismatic Archbishop of New York, Vitalius, Head of the 'Russian Church outside Russia') instead of the name of the Oecumenical Patriarch. This is contrary to article 5 of the Charter (Legislative Decree of 10/16 September 1926, Official Gazette No. 309 (a)), according to which 'All Mount Athos monasteries, whether established by the patriarchate or by the Holy Synod, are subject to the spiritual jurisdiction of the Great Eastern Orthodox Church of Christ; no other name may be venerated except for the name of the Oecumenical Patriarch.' Furthermore, no heterodox or schismatic person is permitted to dwell on Mount Athos. (The same provisions are contained in article 105 of the Constitution and have been repeated since 1925.)

'The monks have dwelt in the Holy Skite and been tonsured there without a permit having been obtained by the Monastery and without following the known procedure regarding habitations'. Similar to it is document No. 55/12, of 25 March 1992, drawn up by the Monastery of the Pantocrator. It is entirely devoted to the two schismatic monks discovered at the time in the sacred skite. In addition to article 5, articles 177 and 178 of the Mount Athos Charter may be cited in this context.

Within the monastic community, there were widespread rumours of moral offences committed by the Dikaeos of the sacred skite. The schismatic monk Seraphim was accused of buying off consciences with dollars, selling holy relics and being homosexual. (In other words, there was also a violation of article 184 of the Charter).

The above information is contained in the minutes of meetings of the Holy Community.

Lastly, the following information was communicated on the nationality of the monks expelled.

Two of them, Seraphim Babits and Ioannikios Abernerthy, were recorded in the register of monks (see doc. No. 55/12 of 25 March 1992 issued by the Holy Monastery of Pantocrator attached hereto). Pursuant to article 105, paragraph 1, of the Constitution, they acquired Greek citizenship.

The first of them declared that he had lost his identity card. He was probably not in possession of a Greek passport. The second one declared that he had lost his identity card and his Greek passport.

The other two schismatic monks were not recorded in their respective monks' registers, but they had been tonsured by Seraphim, the Schismatic Prior (Dikaeos) of the Skite. According to his statement, the lawful procedure was not observed. The above-mentioned persons were Russians of the diaspora, of American citizenship.

More details regarding legal and procedural matters are at the disposal of the Special Rapporteur."

IRAN (Islamic Republic of)

15. In a communication dated 8 December 1993, the Special Rapporteur addressed the following comments to the Government of the Islamic Republic of Iran:

"According to information received by the Special Rapporteur, the situation of religious minorities has continued to worsen during the current year. Such is the case of the Baha'i community and members of various Christian Churches.

1. The Baha'i community

According to reports received, the Iranian authorities have issued directives aimed at halting the spread of the Baha'i faith in their country. These directives are apparently intended to prevent the Baha'is from stating their religion when their children are enrolled in school, or when they are admitted to university, looking for a job or seeking positions of responsibility. They also provide for the establishment of a separate department, responsible for the religious activities of the Baha'i community in Iran, and are aimed at undermining the foundations of the Baha'i culture abroad.

Since 1979, 201 Baha'is have allegedly been killed or executed. One of them was Mr. Bahman Samandari, previously referred to in the Special Rapporteur's report (E/CN.4/1993/62). Fifteen others have disappeared and are presumed dead. More than 40 Baha'is have been arrested and detained for varying lengths of time. On 10 August 1993, 11 Baha'is were imprisoned for their religious beliefs, as listed below (the second and third cases are referred to in document E/CN.4/1993/62):

Mr. Bakshu'llah Mithaqi, arrested on 17 October 1985 in Karaj and subsequently detained without trial. He was reportedly sentenced to death by an Islamic revolutionary court and his subsequent fate remains unknown.

Mr. Kayvan Khalajabadi, arrested on 29 April 1989 in Gohardasht. Alleged to be in the same situation as Mr. Mithaqui.

Mr. Bihman Mithaqi, arrested on 29 April 1989 in Gohardasht.

Mr. Husayn Ishraqi, arbitrarily arrested at his home in Isfahan on 1 April 1992. An elderly man, he is reportedly still in prison.

Mr. Nijatu'llah Bihin-Ain, rearrested in July 1992 in Isfahan after having been released in January 1990. He was reportedly summoned once again by Iranian authorities and sentenced to five years' imprisonment.

Mr. Hushmand and Mr. Rafiee Yazdani, arrested in Abadih in December 1992.

Mr. Irfan Ismailpur, from Chalus, imprisoned in Bhishahr since an unknown date.

Mr. Rabi'u'llah Isma'ilzadigan, detained in Tehran since 1 June 1993.

Mr. Husayn-Auli Rawshan-Damir, detained since 27 June 1993 in an unknown location.

Mr. Daryush Firuzmandi, from Karaj, imprisoned in Tehran since 8 July 1993.

Since the Baha'i faith is not recognized by the Iranian Constitution, members of the Baha'i community are reportedly classified as 'unprotected infidels' and their rights denied. Marriages and divorces among Baha'is, and their inheritance rights, are reportedly not recognized. Usually denied passports or exit visas, they are not free to travel outside Iran.

The Baha'i community has constantly been refused the right of assembly and of electing persons to head their administrative institutions, these being a cornerstone of the community, which has no established clergy.

For the past 13 years, many young Baha'is are said to have been systematically prevented from entering institutes of higher education, such as colleges and universities. The decline in the level of training among young people is reportedly causing concern, with serious consequences for the Baha'i community as a whole.

Many Baha'is in Iran still lack the means of earning a living. In the early 1980s, more than 10,000 people were dismissed from their jobs as civil servants and teachers because of their religious belief. Many of them are reportedly still unemployed and receive no benefits. Some Baha'is dismissed for religious reasons are not receiving their retirement benefits, while former civil servants who were also dismissed have reportedly been forced to return wages or pensions previously paid to them.

It is alleged that Baha'is are not allowed to set up their own businesses. In the cities of Karaj and Aran (Kashan province), they have reportedly been harassed to the point where they were obliged to close their stores. Baha'i farmers are allegedly not admitted to farmers' cooperatives, a source of credits, seeds, pesticides and fertilizer.

According to further information received, ownership rights of Baha'is are not respected. Over the past 10 years, many of their businesses, undertakings and private properties, including houses, have been confiscated. Incidents of this kind have occurred in Sayran and Ilkhchi. Notices of confiscation have been issued by Islamic revolutionary institutions in Iran in respect of assets belonging to Baha'is in Yazd, Tehran and Isfahan.

It has been reported that, in September 1992, several Iranian Government officials in Isfahan occupied the house of a Baha'i man over 80 years of age and seized his property. A dozen other houses have been searched by officials from the Isfahan Office of the Ministry of Justice, who are said to have carried off household utensils, radio and television sets, recording machines, books, cameras and money found on the premises. No acknowledgement has yet been made of complaints filed by the owners.

According to recent information received by the Special Rapporteur, Baha'i cemeteries, holy places, historic sites and administrative centres continue to be confiscated or in some cases destroyed. Owing to their limited access to the cemeteries designated by the authorities, Baha'is are allegedly finding it very difficult to bury their dead in certain places.

2. Members of Christian Churches

According to information received, the Reverend Edmond, pastor of Injili Presbyterian Church in Tabriz (referred to in the Special Rapporteur's report (E/CN.4/1992/52)), is suffering various ailments as a result of his imprisonment between December 1990 and August 1991 and has been refused an exit visa from Iran.

Mr. Mohammad Sepehr, a Muslim convert to Christianity, is said to have been briefly imprisoned early in 1993. Since then, he has repeatedly been called back to prison for interrogation and is currently under threat of a death sentence. He has even been obliged to go to the Mash-had mosque and reconvert to Islam, under threat of execution.

The pastor Mehdi Dibaj, mentioned by the Special Rapporteur in the report referred to above, a former Muslim and a convert to Christianity, is reported to be still imprisoned without trial, although he has been transferred to Sari prison (Mazandaran province), where his conditions of detention have allegedly improved. It is nevertheless reported that his wife has been threatened with being stoned to death should she refuse to recant her Christian faith. She has reportedly been forced to divorce her husband in order to marry a Muslim fundamentalist. Their four children are said to have remained with their Church, which has taken charge of them."

16. In an urgent appeal dated 14 January 1994, the Special Rapporteur addressed the following information to the Government of the Islamic Republic of Iran:

> "I have the honour to address this letter to you in accordance with the mandate entrusted to me by the Commission on Human Rights in its resolution 1993/25.
>
> In my capacity as Special Rapporteur, I should like to draw your attention to recent information that I have received concerning Mr. Mehdi Dibaj, aged 45, a Muslim convert to Christianity, who subsequently became a pastor. It is reported that, after already spending more than seven years in prison, he was sentenced to death on 3 December 1993 for apostasy by an Islamic revolutionary court in the city of Sari. Fears are said to have been expressed about his execution which is alleged to be imminent.
>
> I wish to recall the provisions of article 18 of the International Covenant on Civil and Political Rights, which stipulates in paragraph 1 that 'everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a

religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching'. Paragraph 2 of the same article further states that 'no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice'.

I also draw your attention to the similar provisions of article 1 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief.

In the light of the aforementioned provisions, I wish to express my deep concern regarding the sentence passed on Mr. Mehdi Dibaj, and I should be grateful if your Government would keep me informed of the measures to be taken to give effect to the aforementioned provisions."

17. On 5 February 1994, the Government of the Islamic Republic of Iran addressed the following information to the Special Rapporteur in response to the above-mentioned urgent appeal:

> "In reference to your telex message concerning the case of Mr. Mehdi Dibaj and the allegations raised in the context of his death penalty, I have the honour to inform you of the following:
>
> According to the judicial authorities in my country, Mr. Mehdi Dibaj has not been sentenced to death for his conversion to Christianity and his offence has not come to the level of death penalty according to the Penal Code of the Islamic Republic of Iran.
>
> Mr. Dibaj is currently released from custody and awaiting trial."

MYANMAR

18. On 26 January 1994, the Government of Myanmar transmitted the following information to the Special Rapporteur concerning the communication of 28 February 1994 (E/CN.4/1994/79, para. 64).

> "I am pleased to send you herewith (as per annex) the full information received from the competent authorities of Myanmar on the measures it had taken in order to ensure that the various religious communities in Myanmar enjoy the free exercise of their faiths, in accordance with universally recognized standards of religious freedoms.
>
> May I also add that in Myanmar, the major religions - Buddhism, Islam, Christianity and Hinduism - live side by side, flourishing and living in complete harmony. Foreign visitors to Myanmar can attest to the fact that there is complete freedom for the people in practising their religious faiths.
>
> It is also my sincere hope that the information provided in the annex would serve to prove that religious freedom does exist in Myanmar. Action taken by the authorities against certain individuals in connection with certain religious matters was taken in accordance with the prevailing laws in Myanmar."

"Annex

1. The State Law and Order Restoration Council took over State power on 18 September 1988; since then, it has been carrying out the following four main tasks in order to bring about peace and tranquillity in the country and to restore public order. The tasks are:

(a) To restore the rule of law and order and the peace and tranquillity of the land;

(b) To provide smooth and effective transportation;

(c) To provide the entire people with sufficient food, clothing and shelter and to render necessary assistance to the private sector and the cooperatives;

(d) To hold multiparty democracy general elections when the above-mentioned three objectives are realized.

2. While carrying out these tasks, the Government has been taking measures to quell the armed groups who have been resorting to violence against the people and the Government with the help of outside forces.

3. In carrying out its duty, no discrimination whatever has been made on grounds of race, creed or religion but necessary measures were taken against these destructive forces in strict conformity with the laws of the land.

4. In 1991, skirmishes broke out between the insurgents and the security forces of the Government in the Ayeyarwaddy (Irrawaddy) Division. It was possible that there might be casualties among the civilian populations because of the skirmishes. Action according to law was also taken against those who aided and abetted the insurgents. By tradition, the Myanmar Government has granted amnesty to those lawbreakers who were involved with insurgents upon the restoration of peace and tranquillity.

5. The highly disciplined members of the armed forces are pledged to conduct themselves in conformity with the prescribed code of ethics and military regulations. In so doing, they have to observe strictly the following 10 codes of conduct:

(1) to be loyal to the people;

(2) to safeguard the property of the people;

(3) to be polite to the people and to behave humbly;

(4) to work for the interests of the people;

(5) to avoid making fun of or being impertinent to the people; to avoid insulting, using vulgar language, carrying out a wrongdoing, or threatening the people;

(6) to avoid high-handedness in dealing with the people and not to take advantage of the fact that they (the armed forces) wield arms;

(7) to be careful not to get involved in matters that do not concern oneself;

(8) to give priority to the people's welfare; not seek advantage for oneself;

(9) to satisfy the people by being at their service;

(10) to respect the beliefs, customs, cultures and traditions of the people.

6. As such, during military operations or otherwise, both in spirit and in law, members of the armed forces are strictly required not to commit arrests of persons, acts of torture, rapes and other abuses and other illegal acts.

7. In view of the foregoing, it is obvious that alleged abuses or illegal acts such as torture and killings did not take place during the military operations in 1991 in the Ayeyarwaddy Division.

8. It may be mentioned here that the local populace who had suffered at the hands of the insurgents joined hands with the security forces of the Government in quelling these insurgents. They organized themselves into a people's militia, arming themselves with whatever artifacts they could use as weapons against the insurgents. Ordinary people took part in the military operations against the insurgents in the delta areas in 1973 and in the Pegu Mountain Range in 1975. These insurgents belonged to the Burma Communist Party and the Karen Armed Group. Similarly, in 1993, the Wa people who had suffered at the hands of the insurgents rose up against them and defeated them. Law and order has returned to these areas which have become peaceful since then.

Allegations concerning forced labour

9. During these military operations, porters were used in the border and mountainous areas to help carry the equipment. They were given a reasonable amount of wages as well as food. Their health and security were also taken care of by the armed forces. A separate ration was allocated for the porters by the army. In the unlikely event of loss of life or limb unconnected with any armed conflict, their families were compensated. Therefore, the allegation that porters were not given food or water during the operations is not true. Nor is the allegation that they were tortured. These allegations emanated from false statements made by those that have ill-will against the Myanmar authorities.

10. Of the population in Myanmar, 89.5 per cent are Buddhists. Buddhists believe in and observe the merits of constructing and repairing roads and bridges, and growing trees and flower plants, digging and salvaging wells and ponds, installing drinking water stands,

setting up rest houses, shelters for pilgrims, temples and monasteries. Traditionally, they take delight in giving voluntary labour to dig wells and ponds, to construct dams, to repair roads and to build bridges. Those who can afford to do so will offer food to those who contribute voluntary labour; those who are not well off will at least offer drinking water to those contributing labour. There are also those who entertain these volunteers with music and dances. Myanmar people do not regard it as an ordeal to contribute voluntary work in building and repairing roads.

11. Myanmar was under the rule of colonial Powers for over 100 years. In the delta areas, waterways were the only means of transportation. During the rainy season, travel by this means was hazardous and slow. In accordance with the colonial policy and practice, roads and railways were not constructed. Even after the Independence in 1948, waterways were the only means of transport in the delta regions. Induced by the Policy Declaration made by the State Law and Order Restoration Council to provide smooth and effective transportation, the people in the delta areas asked the Government to take a leading role in constructing roads and railways to facilitate travel as well as transportation of goods. Thus, the Ministry for Construction, together with the members of the armed forces as well as the working people living in these areas took part in constructing roads, railways and bridges. As a result of these undertakings, nowadays people can travel by car from villages to towns and between towns in all seasons in the delta areas. In the past, it took 14 hours to travel by boat from Yangon to Pathein (Bassein). Now the journey has been cut short by 9 hours.

12. In the border areas and hilly regions, mules and horses were used in the past to carry loads. Nowadays, the local people, after joining hands with the Government to quell the insurgent activities took part in nation-building works such as constructing new towns, hydroelectric power stations, bridges over rivers and streams, and roads. In the past it would take five days by car to travel from Taungyi to Kyaington (Kengteng). Nowadays, people could make a day trip between these two towns.

13. Similarly, the construction of Aung Ban-Loikaw railway in Shan State was made possible by the cooperation of the local people who took part in the construction of the railway voluntarily. The members of the diplomatic corps had themselves witnessed these activities.

14. It may be mentioned that the Government paid wages to the villagers who had taken part in the construction of roads. However, villagers usually donate these wages to the building of schools and dispensaries in their villages for the welfare of the whole village.

Allegations concerning forced relocation of Buddhist temples, Hindu statues of deity, Islamic mosques, etc.

15. As a result of years of urban drift, slums and shanty towns mushroomed in major cities and towns in Myanmar. Large, overpopulated squatter settlements sprang up in both privately and publicly owned land.

Squatter settlements were built in public parks, playgrounds, schools, hospital compounds, places of worship of various faiths, along the railways lines and highways. Even cemeteries were not spared. These squatters lived in crowded dwellings unfit for human habitation.

16. With a view to promoting a clean and healthy environment and eradicating undesirable squalor, the State Law and Order Restoration Council adopted a policy of systematically rebuilding towns and villages. As a result, these squatters were resettled in new towns.

17. In keeping with building new towns and villages for the benefit of the working people, regulations were laid down by the municipal authorities. These regulations relate to building pagodas, stupas, monasteries, mosques, temples, human dwellings, etc. As such, devotees of various faiths were not allowed to build or construct places of worship, etc., at any place to their liking. Regulations forbid building of pagodas, monasteries, etc., in residential areas. Neither are they allowed to build or construct places of worship or religious buildings at inappropriate places. Special or appropriate places were allocated for building of religious edifices.

18. Similarly regulations were laid down with respect to locations of cemeteries.

19. In accordance with the regulations mentioned in the foregoing, religious artefacts that belonged to people of various faiths were moved to appropriate places allocated especially for religious compounds. Among these were:

(a) Images representing 28 Buddhas were moved from the squatters' areas in front of the People's Parliament to Nyaungyan Pagoda, Kabar-Aye.

(b) Two small Buddhist stupas built in the Insein Prison were moved to Nyaungyan Pagoda.

(c) One Buddhist stupa built by an individual, located on Industry Road, was moved to Nyaungyan Pagoda at Kabar-Aye.

(d) The statue of goddess Kali was moved from the squatters' areas in front of the People's Parliament to a Hindu temple located in Yankin.

(e) The statue of goddess Kali situated in the compound for the Institute of Nursing was moved to a town called Nyaunglaybin.

(f) The temple of Pashu God situated near the Martyrs' Mausoleum was moved to a Hindu religious compound in Sanchaung township, Yangon.

(g) A few mosques which were built at inappropriate places and without the authorization of the municipal authorities were moved to appropriate religious compounds. Similarly, cemeteries that belonged to the people of Islamic faith which were situated in the heart of towns and villages were moved to appropriate places.

20. It may be mentioned here that the relocation of Buddhist stupas, Hindu statues of deity, Islamic mosques, etc. was made to appropriate places with the consent and after consultation with the religious leaders of the various faiths. In cases where there were strong objections raised by the religious leaders, there were no cases of relocation. For example:

(a) The mosque at Dawna Quarters and the cemetery in Mongwa, Sagaing Division;

(b) The mosque in Yamethin, Mandalay Division;

(c) The mosque at Eime, Ayeyarwaddy Division.

21. In conformity with the policy laid down by the Government to promote and propagate all religious faiths, the following mosques and schools which were closed for various reasons were reopened:

(a) The school of Islam at Tawateintha Street, No. (4) Quarters, Thandwe (formerly Sandoway), Rakhine (Arakan) State;

(b) The mosque in Myothit Quarters, Magwe, Magwe Division.

22. The authorities authorized rebuilding of Swanne Gyar Mei mosque at Min Road, No. (4) Quarters, Kalaw, Shan State.

23. Islamic devotees perform their prayer services at mosques five times a day peacefully. There are 66 mosques in Yangon, 64 mosques in Mandalay and more than 3,000 mosques all over Myanmar. In Rakhine State alone, there are 600,000 Islamic devotees and the mosques situated in various townships are as follows:

Township	No. of mosques
Sittway	106
Maungdaw	647
Buthitaung	192
Yethetaung	45
Minpya	36
Kyauktaw	48
Myauk-U	35
Kyaukphyu	6
Myaypon	5
Yanbye	15
Thandwe (Sandoway)	30
	1 165

24. Books on religion such as the Koran that have been imported from abroad have been examined in accordance with the law and allowed to be distributed. For example:

(a) One thousand copies of the Koran sent by the Muslim World League at Mecca, Saudi Arabia, to Amin Hawa Waqf at No. 18, 26th Street, Yangon have been passed by the board of authorities. The Minister for Religious Affairs himself attended the donating ceremony of the Koran.

(b) In 1992, the Pakistan Embassy in Yangon was allowed to donate copies of the Koran to Suriti mosque.

(c) One hundred copies of the Koran imported without permit by Moulvi U Thein Myint from the Islamic Scholars' Association in Yangon were passed by the Ministry for Religious Affairs.

25. The Government makes a donation of 100,000 kyats every year for the promotion and propagation of the Islamic faith. Some portion of the donation is used to translate the Koran into Myanmar which is then to be distributed to the people of Islamic faith in Myanmar.

26. The Ministry of Religious Affairs has taken the responsibility of bringing into Myanmar X-ray equipment and hospital equipment as well as medicines donated by Singapore for the hospital for Muslims at Mahabandoola Road, Yangon, and then transferred them to the hospital. In view of the foregoing, the allegation that books and articles on Islam are not available in Myanmar is totally false.

27. The Government has also made possible Haj pilgrimages to Mecca, one of the five tenets of the Islamic faith. Since the year 1980, 100 Hajis have gone on the pilgrimage every year. After the State Law and Order Restoration Council took over State power, the Hajis were sent as follows:

Year	No. of Hajis
1991	150
1992	200
1993	200

28. Since the year 1992, the Government has made arrangements with the Finance Ministry as well as with the Myanmar Foreign Trade Bank for each Haji to have US$ 1,000 for expenditure abroad and US$ 1,000 for air fare. Altogether US$ 400,000 are expended every year on 200 Hajis.

29. The candidates for Haj pilgrimages are chosen by the Selection Board of Hajis made up of representatives of Muslims and Muslim organizations from 14 States and Divisions. Haj candidates are chosen by lot by the Selection Board. Still there are complaints by those who have misgivings over the selection procedure. These cases have to be handled by the authorities often.

30. Every year, sermons could be delivered from the Myanmar Broadcasting Service on three auspicious occasions for the people of the Islamic faith - Eid al-Adha, Eid ul-Azh (Bakra Eid) and the Birthday of the Prophet. In order to deliver sermons on these occasions, the Ministry for Religious Affairs made arrangements to edit the sermons and to coordinate between the Central Association of Printers and Publishers' Registration and the Myanmar Broadcasting Service.

31. The Ministry of Religious Affairs has recommended to the Central Association of Printers and Publishers' Registration for publishing the following scripts after editing them:

Year	No. of religious scripts	No. of scripts for monthly journals
1991	58	4
1992	96	5
1993	42	5

32. The Ministry has also made recommendations for various Islamic organizations so that they could publish calendars for Islamic devotees every year.

33. The Minister for Religious Affairs himself attended the ceremony to lay the foundation stone for the Home for Aged Muslim Women at No. (1) Thukha Street, Thingangyun township, Yangon Division.

34. In order for the Islamic religious leaders to promote and propagate their faith, the following two persons have been allowed to travel in Myanmar free of charge to carry out their religious duties: Gazi Mohamed Hashin, Chairman, Islamic Affairs Council Headquarters; and Chief Moulvi Mamod Dawot Yusuf, Chairman, Organization for Ulema Islamic Scholars.

35. The Department of Religious Affairs and the Ministry of Religious Affairs usually make consultations with the following five Islamic organizations for the purposes of Islamic affairs:

(a) The Headquarters for the Islamic Affairs Council;

(b) The Organization for Ulema Islamic Scholars;

(c) All Myanmar Moulvis Headquarters;

(d) The Organization of Myanmar Muslim Youth (a religious organization);

(e) Myanmar Muslim National Headquarters.

36. As mentioned above, the Government has been assisting and making necessary arrangements for the promotion and propagation of the Islamic faith in accordance with rules and regulations. There exists no torture or religious intolerance in Myanmar as alleged. The Government usually consults the five Islamic organizations in carrying out Islamic affairs. In view of this, it could be concluded that the allegations against the Myanmar Government of religious intolerance emanated from sources that bear ill-will against the State Law and Order Restoration Council.

37. By the same token, for the promotion and propagation of Hinduism, Hindu leaders are allowed to travel free of charge to carry out their religious duties. They are allowed to deliver sermons from the Myanmar Broadcasting Service on Deepawali celebrations.

38. Passports have been issued to leaders of the Christian faith and missionaries who had to travel abroad either to attend religious meetings or to hold religious jobs or to dependants accompanying them or to pay a visit. Altogether 852 applicants in such categories have been issued passports.

39. Moreover, the Government has issued entry visas into Myanmar to Christian priests and nuns and to missionaries, as well as to leaders of the Christian faith and devotees who wanted to visit Myanmar on religious grounds:

(a) His Excellency Mgr. Alberto Tricario, Ambassador of the Holy See, was allowed to conduct a Mass at the Church of Saint Mary in Yangon.

(b) Arrangements were made to obtain entry visas into Myanmar for His Excellency Mgr. Cardinal Roger Etchegaray, Chairman of the Pontifical Council of Justice and Peace from the Vatican, Italy, and his party. His Excellency and party called on the Minister for Home and Religious Affairs as well as the Minister for Trade to discuss religious affairs. His Excellency and party paid homage to the Shwe Dagon Pagoda and made a donation of 5,000 kyats. His Excellency also called on members of the Order of Sanghas, led by Vice-Chairman Reverend Bandanta Thawbita. His Excellency and party led the Mass service at the Church of Saint Mary in Yangon and also gave blessings to 500 children. His Excellency laid the foundation stones for new churches at Nanthagene, Insein.

(c) His Excellency Mgr. Claudio Maria Celli, Deputy Minister for Foreign Affairs of the Vatican, Rome, and party applied for entry visas into Myanmar while they were touring South-East Asia. They were welcomed by the Myanmar authorities. U Kyaw Aye, Deputy Minister for Religious Affairs, received His Excellency and party, and together they discussed religious affairs cordially.

(d) Similarly, His Excellency Mgr. Luigi Bressen, Ambassador of the Holy See, and party were issued visas on their business trip to Myanmar. His Excellency was received by the Minister for Religious Affairs, with whom he had cordial talks on religious affairs. His Excellency was seen off at the airport by the Deputy Minister for Religious Affairs.

(e) The missions from the Church of Christ, Thailand, have been allowed to visit Myanmar at the invitation of the Myanmar Christian Council. The Director-General of the Department of Religious Affairs received all these missions.

40. All schools in Myanmar were nationalized in April 1965. In order to distinguish between school and church premises, consultations were held with the concerned Christian associations, following which:

(a) The premises for the Baptist Church in Kyeemyindine and the premises for No. (1) State High School, Kyeemyindine, were redefined and the premises for the Baptist Church were recognized as a religious site.

(b) The premises for the Christian Council on Kyeemyindaing Road, Ahlone township, Yangon Division, and the premises for No. (4) State High School, Ahlone, were redefined and the premises of the Christian Council were recognized as a religious site.

41. On the occasion of Christmas and Easter, which are religious festivals for Christians, arrangements are made every year to deliver sermons from the Myanmar Broadcasting Service.

42. Leaders of the Christian faith are allowed to travel free of charge in Myanmar in order to carry out their religious duties efficiently.

43. Magazines, journals and books on Christianity are examined in accordance with censorship regulations and then allowed to be published.

44. Christian organizations have been allowed to register as religious organizations with recommendations from the authorities concerned. Altogether, 58 organizations have been registered.

45. Necessary certifications and recommendations have been granted to Christian devotees upon application in accordance with the existing laws.

46. In view of the foregoing, it is obvious that the Government has been facilitating freedom of religion in Myanmar and that it has been assisting the devotees of various faiths in accordance with the existing laws.

47. The Government has been consulting the following four Christian organizations with regard to Christian affairs:

(a) Myanmar Christian Council;

(b) The Catholic Council;

(c) The Seventh Day Adventist Church;

(d) The Evangelist Council.

48. In view of the foregoing, the allegation that Christian devotees in Myanmar are subjected to religious discrimination and intolerance is not true."

PAKISTAN

19. In a communication dated 8 November 1993, the Special Rapporteur addressed the following comments to the Government of Pakistan:

> "According to the information received by the Special Rapporteur, the Islamization of Pakistan legislation, which dates back to the 1980s, has severely undermined the exercise of religious freedom and led to serious abuses, in particular abuses committed against the religious minorities of the country.
>
> The attempt by the Pakistan authorities to mention religious affiliation on the identity card of every Pakistan citizen is reported to be another source of concern. It is alleged that when 2 million of these new identity cards had been printed during 1992, further printing was partially suspended in November 1992, in the face of strong opposition from many minorities, including the Christians, and that the provincial parliament of Sind also opposed it.
>
> The Special Rapporteur has been informed that the freedom of movement of certain religious dignitaries has been hampered. It is reported that they have been prevented from going to various regions of Pakistan, on the pretext that their presence or their statements would inflame sectarian feeling or would be liable to cause acts of violence or disturb public order. As a result, more than 50 preachers, zakirs and other eminent persons were allegedly unable to go to various places in the Punjab and the North-West Frontier region during the Muharram celebration. In June 1992, some 30 ulema were reportedly forbidden entry to Jhang and a number of others were denied access to Sialkot. The following month, some 20 ulema were prevented from going to Muzaffargarh, and a dozen more were not allowed to go to Larkana.
>
> In addition, the 10 or so appeals lodged by the Ahmadi community for the restoration of their rights and freedoms as guaranteed by the Pakistan Constitution were reportedly dismissed by the Supreme Court in a judgement of 3 July 1993 in which the Court gave as its interpretation that article 20 of the Pakistan Constitution, relating to religious freedom, was subject to the law, public order and morality. By a majority, the Court allegedly specified that this article was subject to 'Islamic law'.
>
> This decision is said to have been the culmination of a long period of discrimination against members of the Ahmadi minority dating back to a constitutional amendment of 1974, which stated that this minority was 'non-Muslim' and was forbidden to engage in Islamic activities. The scope of this constitutional amendment was reportedly reinforced later by Ordinance XX of 1984, which made amendments to the Pakistan Penal Code, and to sections 298 B and 298 C, in particular, by referring explicitly to the Ahmadis and by prohibiting them from declaring themselves to be Muslims and from using Muslim practices in their worship or in the teaching of their faith. Any breach of these laws is reportedly

punished by a sentence of up to three years' imprisonment and a fine. On 7 July 1991, article 295 A of the Penal Code was reportedly amended by Ordinance XXI, which increased the maximum period of imprisonment imposed for outrage against religious views from 2 to 10 years.

Many Ahmadis have reportedly been prosecuted under article 298 C of the Pakistan Penal Code for using expressions that include Muslim epithets and verses of the Koran with the intention of passing the Ahmadis off as Muslims, as well as the call to prayer, the actual prayers, the customary greetings, the inscriptions on houses or tombstones and the patterns on invitation cards or cards announcing marriages.

In 1986, the amendment to article 295 C of the Pakistan Penal Code made it possible to sentence any person guilty of directly or indirectly slandering the name of the Prophet Muhammad to life imprisonment and even to capital punishment, as well as the payment of a fine.

In spring 1991, the Supreme Court, inspired by the Shariah, reportedly issued a decree, which was subsequently ratified by the Senate, declaring that anyone deemed to be guilty of blasphemy under article 295 C of the Penal Code would henceforth be sentenced to death, without any possibility of appeal. Capital punishment thus allegedly became mandatory from 1 May 1991. During the period under review, the laws on blasphemy reportedly built up an atmosphere of religious intolerance in the country and even encouraged acts of violence, against the Ahmadi and Christian minorities in particular.

It is alleged that, in 1992, more than 150 complaints were lodged against members of the Ahmadi community for violations concerning the use of Koranic verses in their private correspondence and that the persons concerned received sentences ranging from a few months to two years. In addition, 718 persons were allegedly prosecuted for offences involving the inscription of the kalima (profession of faith), 729 others for having recited the azan (call to prayer), 91 for having offered the namaz (prayer) and some 10 others for having read the Koran. At least three teachers, in Islamabad and in Dunyapur, in the district of Lodhran, reportedly lost their posts because they were Ahmadis. It is alleged that, in one instance, the teacher was asked to resign his post because he was not entitled to teach the Koran and that, in another, he was allegedly harassed by the management of the school, boycotted by his pupils and denied admission to the canteen, before being relieved of his responsibilities; the third instance was that of a teacher who was denounced to the police for having taught her faith in her school and declared guilty of having breached sections 298 C and 295 C of the Penal Code. At present, she therefore risks the death penalty. It is further reported that 11 Ahmadi places of worship were partially demolished, a dozen tombs were desecrated and some 20 burials according to Ahmadi rites were forbidden.

Other cases reported to the Special Rapporteur in which persons belonging to the Ahmadi minority are alleged to have been persecuted are described below:

> On 20 July 1992, after the death and burial of a prominent Ahmadi esteemed by all the members of his village, a mullah allegedly came five days later and demanded that the dead man be exhumed. The villagers protested and won their case, after the district judge discovered that the five signatures collected by the mullah for carrying out his design had been obtained by threats.
>
> On 29 July 1992, a lawyer, Ateeq Ahmad Bajwa, amir of his district in Vihari, allegedly used Islamic expressions referring to the Prophet Muhammad in statements made during a press conference and again before the Bar Association. He was denounced to the police by a neighbour and, after obtaining bail, he was thrown into prison in Multan.
>
> In the village of Nasirabad, in the district of Muzaffargarh, the members of the Ahmadi minority were allegedly attacked by opponents. After being berated by the police who came to the rescue, the opponents resumed their attacks against the Ahmadis with even greater force, beating and robbing some of them. Others left the scene and took refuge in neighbouring villages, fearing denunciation by their neighbours or arrest on false grounds.
>
> For the ninth consecutive year, the celebration of the 'Jalsa Salana', which is the assembly established more than 100 years ago by the founder of the Ahmadi movement, was allegedly forbidden by the Pakistan authorities.

Starting from January 1993, 104 members of the Ahmadi minority, most sentenced to life imprisonment under section 298 C of the Pakistan Penal Code for having used certain traditional Islamic inscriptions on the walls of their houses or in their announcements of marriage, allegedly had their sentences reviewed under section 295 C and commuted to capital punishment.

Like the Ahmadis, the Zikris are reportedly still being harassed with a view to declaring them non-Muslims. It is alleged that many Zikris whose faith dates back to the sixteenth century and advocates abstinence, seclusion, contentment and invocation of the holy names of Allah, have been prevented by the authorities from organizing their annual processions and rites at the end of Ramadan, in Turbat, in the coastal area of Baluchistan. The present campaign against this minority is reportedly also racially based and reveals fundamentalist intransigence at work in Pakistan society.

Other Pakistan citizens, who are Muslims, were allegedly affected by the laws on blasphemy. According to the information received:

Akhtar Hammed Khan, an eminent writer and sociologist, 81 years of age, who is known for his commitment to the deprived people of Orangi in Karachi, launched a pilot development project on their behalf. Some aspects of the project seeking to offer real estate loans on favourable terms to the population and to improve the condition of women through education and access to employment and to family planning, apparently went down badly with local businessmen and the orthodox Muslim authorities.

This eminent sociologist, it is alleged, was first charged with blasphemy, after being reported by a former employee who had been dismissed in 1988, in connection with an interview given to an Indian journalist, the article concerning which was never published. The matter was dropped by the Karachi police for lack of sufficient evidence. On the other hand, extracts from the so-called article have been published in the weekly organ of the conservative Jamaat-i-Islami party.

On 14 May 1990, similar accusations based on the above-mentioned article were made against Mr. Khan by a religious leader from Multan and confirmed on the basis of sections 298 A, 295 B and 295 C of the Pakistan Penal Code. Mr. Khan was arrested a few months later and held briefly before being released.

The third accusation of blasphemy stemmed from a children's nursery rhyme entitled 'The Lion and Anaq', which was published by the Oxford University Press in 1989. According to the person who lodged the complaint against Mr. Khan on 19 March 1992, the nursery rhyme made particular reference to the Holy Prophet and to the fourth caliph, thus insulting the Prophet and Islam. Although the High Court of Sind granted Mr. Khan release on bail, in the meantime his home was searched on several occasions. Libellous articles and tracts were published about him in the press or distributed to the population by the religious leaders. He was then again arrested and held for short periods without any arrest warrant, despite being supported by several publishers, influential Pakistan citizens or human rights groups.

Abdullah Malik, a former journalist and well-known writer active in political life, was the victim of a smear campaign carried out recently by the press, denouncing the accounts of his pilgrimages to Mecca during the last 20 years as blasphemous, ridiculing the writer and calling him the 'Salman Rushdie' of Pakistan.

Lastly, it is reported that several Pakistanis of the Christian faith or converts to Christianity were also victims of the blasphemy laws. In the cases mentioned by the Special Rapporteur in his report in document E/CN.4/1992/52, namely those of Naimat Ahmer, Tahir Iqbal and Gul Masih, the following information should be added regarding the latter: he professes the Catholic faith, and comes from Sargodha, a town 200 miles from Islamabad with a sizeable Christian minority. Gul Masih was the first person sentenced to death in Pakistan for blasphemy since the penalty became mandatory in 1991.

It is alleged that on 10 December 1992, during a discussion between Gul Masih and his Muslim neighbour Mohammed Sajjad Hussain, near a public fountain, which had become poisoned because it was in poor working order, his neighbour claimed that Gul Masih had insulted the plumber in charge of the fountain, who is also a Muslim, and made disparaging remarks about the Prophet Muhammad. Later that day, Gul Masih's neighbour returned to see him and demanded that he withdraw his remarks, which he refused to do.

During the days following this dispute, Sajjad Hussain was encouraged by a maulvi (a learned teacher of Islamic law) belonging to an orthodox Islamic organization which is apparently seeking to make Pakistan a Sunni State by removing all non-Sunni Muslims from Government posts, to lodge a complaint against Gul Masih, on the basis of section 295 C of the Penal Code. The dispute continued for several days, and implicated Gul Masih's brother, a political opponent of the maulvi mentioned above.

Finally, it is reported, Sajjad Hussain lodged a complaint against Gul Masih and his brother Basih, accusing them both of blasphemy. Both men were arrested during the night of 14 December 1991 and imprisoned. Basih was released six weeks later after Muslim neighbours had testified that he had no part in the above-mentioned dispute. The trial of Gul Masih began in November 1992, solely on the basis of the testimony given by Sajjad Hussain, and the judge of Sargodha, Khan Talib Hussain Baloch, sentenced Gul Masih to death by hanging and to a fine of 5,000 rupees - a sentence which will be executed if upheld by the Supreme Court.

It is further alleged that, since his conviction, Gul Masih has been held in solitary confinement. An appeal has been lodged with the Supreme Court, emphasizing that the evidence of Gul Masih's guilt was insufficient and that he had not been given the benefit of the doubt and that capital punishment was therefore unjustified.

It is also reported that Bhatti Sarvar, a young 21-year-old Pakistan Christian, working side by side with Pastor Liagat Paiser of the Pentecostal Church of Philadelphia, was accused by four Muslims, who did not witness the events complained of, of burning a copy of the Koran at his uncle's home on 19 June 1992. In fact, on the day in question, the accused had gone to visit his relatives in his native Punjab. His children had been left in the care of his uncle and his wife and, in their absence, had lit a fire in the house which had burnt a few books nearby. The children managed to put out the fire and throw the burnt books out into the street.

It is further alleged that, when she returned home, the aunt found her house surrounded by a mob of angry Muslims, chanting slogans against her family and the Christian community of Sarghar, accusing them of burning and desecrating the Koran. Although the book which was the object of the complaint was never found, the following week Bhatti Sarvar was finally handed over to the police by his family because they feared that his detractors would end up killing him.

On the day when he appeared before the chairman of the municipal committee, 11 representatives of the local Christian community and some 100 Muslim leaders, together with a vociferous crowd of about 2,000 Muslims congregated in the hall, demanding that Bhatti Sarvar should be hanged. Since his arrest, he has reportedly been due to appear at 11 hearings without a defence lawyer because the attempts made by his family to secure the services of four lawyers in Sarghar have been unsuccessful. Bhatti Sarvar was apparently preparing to plead guilty, despite the fact that the charges against him were false, in order to spare his family any unduly unpleasant consequences. Christians from the province of Sind were preparing to collect money to pay a lawyer from outside of Sarghar who would agree to defend the victim.

It is also reported that three young Christians, Rehmat Masih, Manzoor Masih and Salamat Masih (the latter only 11 years of age) were arrested for having scrawled defamatory inscriptions on the walls of the Ratta Dhotran village mosque on 9 May 1993 - this despite the fact that two of them are illiterate - and that since then they are thought to have been held at the Gujranmala central prison, in the province of Punjab. These three young people, who were charged under section 295 C of the Penal Code, cannot be released on bail and risk capital punishment. It is also stated that these arrests occurred at a time when there were feelings of hostility and friction between Muslims and members of the Christian minority; the families of the victims were harassed, and a Christian church was attacked. To date, local lawyers have been reluctant to defend the accused.

Lastly, it is alleged that the Hindus, another religious minority in Pakistan, have suffered serious violations of their right to freedom of religion, following the desecration and destruction of the Babri Mosque in India in December 1992. Over 120 Hindu temples and 2 Sikh gurdawaras (places of worship), as well as the same number of homes and shops, were sacked by the crowd. Some 600 families have been the victims of these attacks and scores of deaths have occurred. Furthermore, there has been a resurgence of hostility against the Hindus in Pakistan, who complain of various forms of discrimination, harassment and forced conversions to the Islamic faith."

20. On 8 February 1994 the Government of Pakistan addressed the following information to the Special Rapporteur:

"Report on the state of the case concerning Mr. Gul Masih

1. Gul Masih, a resident of Chak No. 46/NB, Sargodha district, was accused of having made remarks defiling the sacred name of the Holy Prophet. Sajjad Hussain, the son of Rakim Bakhsh (the complainant), resident of the same village, reported the matter to the Police Station, Satellite Town, Sargodha, and criminal proceedings were therefore brought

against Gul Masih under section 295 C of the Penal Code of Pakistan. After investigation by the police, the case was tried by the judge of the Sargodha Court of Additional District and Session. Mr. Gul Masih was found guilty and sentenced to death, and also fined Rs 5,000. However, the death sentence was not confirmed by the High Court. The accused has appealed to the Lahore High Court.

2. It may be mentioned that Gul Masih was convicted by the judge of the Sargodha Court of Additional District and Session after due process of law and in accordance with the provisions of the penal laws of Pakistan. All citizens of Pakistan, irrespective of their religious beliefs, are subject to the same laws and are treated equally in accordance with the laws of the land."

21. On 14 February 1994, the Government of Pakistan sent the Special Rapporteur its comments on the above-mentioned communication of 8 November 1993 (see para. 19):

"1. The following articles of the Constitution of Pakistan safeguard the interests of the minorities in the country:

Article 20

Subject to law, public order and morality, every citizen shall have the right to profess, practise and propagate his religion and to establish, maintain and manage religious institutions.

Article 21

No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than this own.

Article 22

(1) No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship if such instruction/ceremony or worship relates to a religion other than his own.

(2) In respect of any religious institution there shall be no discrimination against any community in the granting of exemption or preferential treatment in relation to taxation.

(3) (a) Subject to law, no religious community or denomination shall be prevented from providing religious instructions for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination; and

(b) No citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.

Article 27

No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth.

Article 36

The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provisional services.

2. These provisions clearly indicate that the Constitution provides full protection and equal treatment to the minorities and there is no bias, for or against, on the basis of colour, race or religion.

3. The Ahmadiyya issue has a century-old history. The problem arose when a group of persons led by Mirza Ghulam Ahmad denied the finality of Prophet Muhammad (Peace Be Upon Him) which, after the unity of God, is a fundamental tenet of Islam. Its denial led to violent agitations against the Ahmadiyya community in 1953 and in 1974. The matter was deliberated upon in the legislature and the consensus of the nation was arrived at in the shape of an amendment in the Constitution through a unanimous vote of the National Assembly in 1974. This amendment had two objectives, viz.:

(a) To safeguard the religious sentiments of Muslims (the overwhelming majority of the population);

(b) To protect the Ahmadis from any adverse reaction arising from what had historically been regarded as a repudiation of a fundamental belief of the Muslims.

4. Undoubtedly, the controversy between the Ahmadis and Muslims continues to be emotive, but strong statements made by individuals in a religious context are not to be taken as the policy of the Government of Pakistan. The complaints and concerns of the Ahmadiyya community are based evidently on presumption rather than fact. The allegation concerning persecution of Ahmadis is totally baseless.

5. The Ahmadis, as a non-Muslim minority, have been accorded all the rights and privileges guaranteed to minorities under the Constitution and laws of Pakistan. The Government has taken the necessary legislative and administrative measures so as to maintain sectarian peace.

6. The exercise of a right is never absolute. The International Covenant on Civil and Political Rights, while proclaiming the freedom of religion or belief in article 18, stipulates in paragraph 3 of the same article that:

> **Freedom to manifest one's religion or belief may be subjected to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.**

7. The condition is repeated in paragraph 3 of article 1 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

8. Ahmadis in Pakistan enjoy full civil rights including the right of political franchise. In Pakistan, a system of separate elections for each religious community has been adopted to ensure that all minorities are represented in the legislatures. The Ahmadis, like other minorities in Pakistan, have full freedom of expression under the law and this is evident from the fact that they have the largest number of publications brought out by any minority in Pakistan.

9. There is no discrimination against them as regards their employment opportunities in Pakistan. Many members of the Ahmadi community hold important positions in the services of Pakistan, both civil and military. Not a single Ahmadi has been removed from government employment on the grounds of his religious beliefs. Anyone familiar with the true situation in Pakistan can bear testimony that there does not exist any plan or campaign, official or otherwise, to persecute the Ahmadi community. Despite that, individual instances do exist, and these are then dealt with in accordance with the law.

10. As regards the mentioning of religion in the national identity cards, no decision has been taken by the Government. This is merely a proposal which has been submitted to the Government for consideration. This proposal has not been accepted and there are no indications that it would be accepted in the future.

11. Blasphemy laws apply equally to all Pakistanis, irrespective of religion. They pertain to all the revealed religions - Islam, Christianity and Judaism - and their Prophets. At present two persons - a Christian and a Muslim - are facing trial under this law: a Christian for alleged blasphemy against Prophet Muhammad and a Muslim for blasphemy against the Prophet Jesus Christ.

12. The blasphemy laws in Pakistan are not directed against the Christians or any other religious group and are also not in conflict with the fundamental freedoms. The common law reflects the will of the majority of the people. Pakistan being predominantly an Islamic society, it has to be ensured that the persons considered holy by the Muslims are not disgraced in Pakistan. Since the religious beliefs carry emotional attachment with it, in the absence of any law on the subject, the outraged emotional people take the law in their own hands which cannot be allowed at any cost.

13. As for some of the cases mentioned in the communication, Mr. Akhtar Hamid Khan was granted bail before arrest by Chief Justice of Lahore High Court on 14 April 1992, and his case was transferred from the Court of District and Sessions Judge Multan to the Court of District and Sessions Judge Sahiwal, where it is under trial.

14. Tahir Iqbal was admitted in Central Jail, Kot Lakhpat, Lahore on 9 December 1990, as an under trial prisoner in case FIR No. 297/90, dated 7 December 1990, under section 295 B, Pakistan Penal Code, for defiling the Holy Quran. The under trial prisoner died on 20 December 1992, in the Central Jail hospital, Lahore. As required under rule 751 of Pakistan Prison Rules, a Judicial Inquiry was conducted by a Magistrate 1st Class for determining the causes of death in jail. The Medical Officer opined the cause of death of said prisoner as 'cardio-pulmonary arrest'. However, he was of the view that the exact cause of death could not be determined without a post mortem. However, the mother of the deceased did not agree to the post mortem and insisted that the dead body of her son be handed over for burial.

15. Gul Masih, a resident of Chak No. 46/NB, District Sargodha was accused of having used derogatory remarks and defiling the sacred name of the Holy Prophet. Sajjad Hussain s/o Rahim Bakhsh (complainant) resident of the same village reported the matter to the Police Station, Satellite Town, Sargodha and a Criminal Case under section 259 C, Pakistan Penal Code was therefore registered against accused Gul Masih. After investigation by police, the case was tried by the Court of Additional District and Sessions Judge, Sargodha. Mr. Gul Masih was found guilty and sentenced to death along with a fine of Rs 5,000. However, death sentence was not confirmed by the High Court. Presently his appeal is pending in the Lahore High Court.

16. It may be mentioned that Gul Masih was convicted by the Court of Additional District and Sessions Judge, Sargodha, after due process of law and in accordance with the provisions of the penal laws of the land. All citizens of Pakistan, irrespective of their religious beliefs, are subject to the same law, and are treated equally in accordance with the laws of the land.

17. As for the case of Salamat Masih, Rehmat Masih and Manzoor Masih, as reported by the Punjab Government, Salamat son of Allah Ditta is an accused in Case FIR No. 56/93 U/S 295-C Police Station Ladha, District Gujranwala. Salamat Masih accused along with co-accused M/S Rehmat Masih S/O Nanak Masih and Manzoor S/O Noor Masih were seen writing blasphemous inscriptions on the wall of a mosque in village Ratta Dhotran. The eye-witnesses include the Pesh Imam of the Mosque and two other persons of the locality, one of whom lodged an FIR at the Police Station Ladha. After preliminary investigation, the Police arrested the three accused persons and proceeded in the matter in accordance with the laws of the land. The accused were found guilty during investigation by Police and the case, therefore, was sent up for trial in the Court of Additional District and Session Judge, Gujranwala.

18. All the accused were lodged as under trial prisoners in District Prison Gujranwala under the orders of the trial court. Accused Salamat Masih, a minor, was detained in the juvenile section of the same prison. He was not kept with adults. The accused Salamat Masih has been granted bail in this case by the Court of Session, Gujranwala and was released from jail on 13 November 1993.

19. Brief facts of Niamat Ahmer's case are that on 6 January 1992, at 10 a.m., Razzaq Masih and Hanooke Gil went to the Office of District Education Officer (D.E.O.), People's Colony, Faisalabad to see Niamat Ahmer. Niamat Ahmer and his companions were scheduled to meet the D.E.O. in connection with his transfer. Niamat Ahmer went to use the nearby toilet. After some time his companions heard loud cries. They rushed towards the toilet and saw one Farooq Ahmed, son of Noor Muhammad, caste Sheikh, resident of Chak No. 242/RB, inflicting knife blows upon Niamat Ahmer. The accused along with bloodstained knife was caught by Razzaq Masih and Hanooke Gil. Niamat Ahmer succumbed to his injuries then and there. The motive attributed to the occurrence was that the deceased allegedly used derogatory remarks against the Holy Prophet (Peace Be Upon Him) during his period of service as a teacher.

20. A murder case was registered at the request of Waqar Ahmer, brother of Niamat Ahmer, resident of 727/F Gulistan Colony, Faisalabad. After the necessary investigation the accused was arraigned on 20 January 1992, and the case is pending trial in court.

21. The above incident was an isolated action of an individual fanatic who is facing trial in the court and the allegations/fears of religious persecution against Christians in Pakistan are unfounded.

22. As Pakistani citizens, members of the Christian community have the right to profess their religion, and to establish, maintain and manage their religious institutions. They also have due representation in the National Assembly. They enjoy full freedom of opinion and expression, as is available to the other citizens of the country and, like all other Pakistanis, they also have the liberty to seek remedy from the courts under article 199 of the Constitution of Pakistan. Courts in Pakistan, like in any other democratic country, are free, and cases are decided in accordance with the laws of the land.

23. As regards the allegations of discrimination against Hindus and the destruction of some Hindu temples in Pakistan, it may be pointed out that the charges of discrimination against Hindus or any other minorities are unfounded. The unfortunate incident of destruction of some Hindu temples in Pakistan was the result of a popular backlash that followed in Pakistan after the demolition of the historic Babri Mosque in India. The fact that the demolition of Babri Mosque was a pre-planned wilful act has been documented by Mr. Kuldeep Nayyar, a prominent Indian journalist, who in the 8 December 1992 issue of the Nation wrote that 'India's Intelligence Bureau had informed Prime Minister Narasimah Rao, one week in advance that Babri Mosque was going to be demolished but still the Indian Government simply did not do anything to protect the Mosque'.

24. The spontaneous and popular backlash in Pakistan (and in other Islamic countries) was a direct response of emotionally outraged Muslims to the demolition of the Babri Mosque, which in no way was condoned by the Government. In Pakistan, the damage to the Hindu temples was condemned by all religious, political and other leaders of opinion, unlike in India, where political parties like the Bhartia Janata Party (BJP) and the Shiv Sena applauded the demolition of the Babri Mosque. Pakistan Government took immediate steps and committed itself to the repair of the damaged temples, work on some of which has already been completed and the other temples are being repaired. As opposed to the immediate action taken by the Government of Pakistan the pledges by the Indian Government to reconstruct the Babri Mosque have yet to be fulfilled.

25. It is reiterated that the Government of Pakistan is fully committed to protect and safeguard the legitimate rights and interests of all minorities living in Pakistan."

II. CONSIDERATION OF GENERAL INFORMATION ON THE IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

22. On 21 April 1994, the Special Rapporteur sent all States a note verbale drawing their attention to Commission on Human Rights resolution 1994/18 and inviting Governments to communicate any new information falling within that mandate, as well as any other observations they might wish to formulate on the subject.

23. The Rapporteur has received replies from the following 19 Governments: Argentina, China, Croatia, Ethiopia, Greece, Guyana, Indonesia, Jamaica, Luxembourg, Monaco, Morocco, Philippines, Qatar, Romania, Spain, Sri Lanka, Sudan, Sweden and Venezuela. Given the modest number of replies and the variety of the information, the Special Rapporteur decided to compile the texts in the report by country rather than to present an analytical summary by subject, for which more complete and more specific information from more countries would have been required.

24. Furthermore, in cases of particularly long replies, such as that of the Sudan, given the constraints involved in publication, the Special Rapporteur summarized the information. In addition, when the information concerned States and/or individuals, the Rapporteur decided not to reproduce it, but to treat it confidentially, as an allegation.

25. Most of the replies from Governments referred to Constitutions, relevant laws and regulations, to the right to religion and traditions related to the question of freedom of religion or belief; to legal measures taken to combat intolerance and discrimination in that regard; and to government policies.

26. The information communicated deals primarily with the following subjects:

(a) Protection and promotion of the right to freedom of thought, conscience, religion or belief and related human rights, such as freedom of expression, information, assembly, association and equality before the law;

(b) Protection and promotion of the right to manifest one's religion or belief in worship, observance, practice and teaching; of the right to peaceful assembly and association in connection with a religion or belief; of the right to teach a religion or belief in places suitable for those purposes; and of the right to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;

(c) Prevention and elimination of discrimination on the grounds of religion or belief and, in particular, protection against discrimination in the areas of education, access to public posts, employment, the practice of a profession, and marriage;

(d) Legal measures for dealing with offences related to religious beliefs or feelings and protection of the places, ceremonies and traditions linked to religion or belief;

(e) Conscientious objection to military service;

(f) Education, including in particular the religious education of children and adults, and provisions and practices in that field; and

(g) Legal restrictions on the above-mentioned rights.

ARGENTINA

27. On 2 June 1994, the Permanent Mission of the Argentine Republic to the United Nations Office at Geneva transmitted the following general information to the Special Rapporteur:

> "The Argentine Government has submitted to Congress a draft law on religious freedom which sets forth the contents of that right in the light of consistent national case-law, commitments under the human rights instruments in force in the country and international law as expressed in the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.
>
> Without ruling out the possibility of communicating the text at a later date, we will refer here to the major principles of the draft law, which is currently before the Committee on Foreign Affairs and Worship of the House of Deputies and which has already been passed by the Senate.
>
> The draft law consists of 22 articles divided into six chapters on the following subjects: (i) basic principles; (ii) relations with the Apostolic Roman Catholic Church; (iii) the Register of Churches and Denominations; (iv) the Consultative Council for Religious Questions; (v) protection of religious freedom; and (vi) transitional provisions.
>
> In its current form, the draft law derogates both from the law currently in force on the subject, Act No. 21745, approved and promulgated on 10 February 1978, and from regulatory Decree No. 2037/79.

Chapter I, entitled Basic Principles, reaffirms the applicability in Argentina of the principle of religious freedom (art. 1), gives examples of the rights deriving therefrom (art. 2), enunciates the rights of churches, denominations or religious communities (art. 3), describes the restrictions which may legitimately be placed on religious freedom (art. 4) and indicates cases where that freedom is not protected (art. 5). It marks the first time that the law has dealt with the contents of the right to religious freedom.

In reaffirming the applicability of the principle of religious freedom, article 1 is based on articles 14 and 20 of the Argentine Constitution, which recognizes the right of all those residing in the country freely to practise the religion of their choice. It also reaffirms the principle of equality set forth in article 16 of the Constitution and prohibits all inequality or discrimination based on religious beliefs, confirming the provisions of Act No. 23592 of 3 August 1988, on discrimination.

The only exceptions to the principle of non-discrimination are to be found in article 76 of the Constitution, which, among other eligibility requirements for the presidency of the Republic, lists belonging to the Apostolic Roman Catholic faith, and in the provisions of the provincial Constitutions, specifically that of Catamarca, which establishes the same eligibility requirement for the post of governor. It should be pointed out in that connection that Act No. 23049, on the need for constitutional reform, expressly refers to article 76. The elections to the Constitutional Convention were held on 10 April 1994; that convention is due to start on 25 May.

Article 2 specifically enumerates the various aspects of religious freedom, in conformity with the provisions of article 12, paragraph 1, of the American Convention on Human Rights, and article 18, paragraph 1, of the International Covenant on Civil and Political Rights, both of which are in force in the country, as well as the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

As currently drafted, the text is much more detailed than any of the other above-mentioned international provisions and also has the advantage of not being restrictive. The terminology used in those texts for the contents of religious freedom is, however, somewhat different. Article 2, paragraph 1, of the draft law deals expressly with cases where an individual renounces his religious beliefs without replacing them with new ones. Although the international provisions are worded a little differently, they all have the same objective, namely, that 'everyone has the right to leave one religion or belief and to adopt another or to remain without any at all'. (See Elimination of all forms of intolerance and discrimination based on religion or belief, Elizabeth Odio Benito, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Study Series No. 2, 1989, Sales No. E.89.IV.3, para. 21.)

The traditionally recognized right for parents and legal guardians to choose religious education for their children or wards in accordance with their beliefs, which was confirmed by the Supreme Court of Justice of Argentina in the Schvartz case of 1957, Judgement No. 239:367, among others, is supplemented by the right of curators.

In this connection, it should be recalled that article 14 of the Convention on the Rights of the Child of 1989, in force in Argentina since 4 January 1991, stipulates that States parties shall respect 'the right of the child to freedom of thought, conscience and religion' and 'the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child'.

Article 3 states that, without prejudice to the rights to which their members are entitled, churches, denominations or religious communities have very specific rights which are enumerated in four subparagraphs and correspond, respectively, to the provisions of article 6 (a), (b), (d), (i) and (g) of the 1981 United Nations Declaration.

In describing the restrictions which may legitimately be placed on religious freedom, article 4 states: 'The only limitations on the exercise of the rights deriving from the freedom of religion and of worship are the right of others to exercise their own freedoms and the limitations necessary for the maintenance of public order, health and morals'.

That article should be read in the light of article 12, paragraph 3, of the American Convention; article 18, paragraph 3, of the International Covenant; article 1, paragraph 3, of the Declaration; and article 14, paragraph 3, of the Convention on the Rights of the Child, all of which refer to limitations prescribed by law and necessary for protecting public safety, public order, public health and morals and the fundamental freedoms and rights of others.

According to two other paragraphs of article 4, in the eye of the law, no exemptions are granted, on the grounds of professing to hold given religious beliefs, to the duty to carry out obligations of a public nature imposed by a Constitution or the law; and the right to conscientious objection is governed by a special law, which implies that it is the authorities' intention to ensure that the right is guaranteed.

The law defines its scope of application by specifying that it does not protect 'activities and entities involved in the study of astrophysical, psychic or parapsychological phenomena, divining, astrology or the dissemination of purely philosophical, humanist or spiritualist values; satanic rites; or with any related experiments that might be conducted'. Without going into the complex and thorny problem posed by the definition of 'religion', in some manner the draft defines the boundaries outside of which such activities fall.

Similarly, the draft states that 'any public use which may be made of names, outward signs or emblems commonly associated with a church or denomination, other than that for which it is intended, is also not protected, except where the party concerned gives its express consent'. The law thus excludes from its scope any misuse of signs, giving another legal argument to anyone who institutes proceedings to enforce such a right.

Chapter II of the draft law deals with relations between the State and the Apostolic Roman Catholic Church, calling for them to be governed, as is currently the case, by the principles of autonomy and cooperation set forth in the agreement signed between the Holy See and the Argentine Republic on 10 October 1966 and confirmed by Act No. 17032.

The registry of churches and denominations is the subject of Chapter III, in which substantive reforms are proposed to current legislation, which was basically limited to reproducing the provisions of Decrees Nos. 1127/59, 3446/62 and 7110/63.

Article 7, which states that 'Churches, religious communities and denominations have legal personality in their own right, once they are listed in the registry maintained by the Ministry of Foreign Affairs and Worship', is important because of its innovative nature. It also stipulates that 'being listed in the registry is optional' and that 'not being listed does not prevent the entity in question from enjoying freedom of association, its members from exercising the rights to which they are entitled by this law or the State from exercising its policing power'.

The draft law completely modifies the existing regime, which, under the provisions of Act No. 21745 and Regulatory Decree No. 2037/79, requires all religious organizations active in the country to be listed. Being listed in the registry must not only precede any activity, but is a requirement for recognition by the State and a condition for the granting of legal personality or the founding and existence of the association as a subject at law, thus immediately leading to the conclusion that recognition by the State is tantamount to founding and that only those groups which are recognized and listed in the registry are authorized in the national territory.

In the draft law, by contrast, being listed in the registry goes hand in hand with the granting of legal personality within the meaning of article 33, paragraph 3, of the Civil Code. The optional nature of the listing process, and the right not to be listed, which derives from it, do not mean that worship is prohibited, but simply that congregations and ministers are regarded as groups of persons exercising their right to religious freedom - and this does not exempt them from the exercise by the State of its policing power.

Article 8 sets forth guidelines to be followed by the Executive in drafting regulations on the registry. In material terms, the church or religious community asking to be listed must meet at least one of the following requirements: (a) demonstrate that it is present in at least three provinces or districts of the national territory; (b) represent either a church or an official denomination of a State that maintains diplomatic relations with the Argentine Republic or the delegation in Argentina of a patriarchate headquartered abroad; (c) show proof of a secular presence in the country; or (d) show proof of a minimum number of adherents, equivalent to 10 per cent of the total population of the province or provinces in which it is active.

This represents a significant change to the existing regime, in that it is not intended that different entities which are part of the same group should be listed in the proposed registry. Article 8, paragraph 6, expressly states that 'associations or entities which are not of a strictly religious nature and cultural, educational, service or aid entities - even if the latter are founded on the basis of their members, religious affinities, or in order to publish or disseminate religious opinions - are not listed in the registry, without prejudice to the right of the churches or denominations which do list themselves in the registry to organize, create or run such associations'.

According to article 8, paragraph 7, the listing may be cancelled only at the request of the party concerned, in accordance with a decision by the court or the administration following an investigation in which the rights of the defence are guaranteed. Along the same lines, if the seriousness of the offence does not justify cancelling the listing, then the supervising authority may impose penalties (a warning or suspension of the listing), which derive from the same administrative investigation.

The optional nature of the listing clearly reflects a certain generosity of spirit which goes hand in hand with religious freedom, but being listed in the registry also means a number of advantages for churches, religious communities or denominations, as stated in article 9, including tax advantages and exemptions authorized by law, the status of a public-interest establishment, immunity from seizure and inalienability of religious premises and objects. Article 10 grants regulatory autonomy to the denominations which have listed themselves.

The criterion of the denomination's presence in the country, which was mentioned in connection with article 8, paragraph 1, is to be found in article 1, according to which the Executive has discretionary power to conclude cooperation agreements with denominations which are listed in the registry and which, by virtue of their presence throughout the world, their traditional activities in the country, the stability of their beliefs and the number of their members, offer guarantees of permanence in the country', it being understood that the Legislature must approve those agreements if they are not solely within the competence of the Executive.

Chapter IV of the draft law concerns the establishment of a consultative council for religious questions, which is part of the Ministry of Foreign Affairs and Worship is honorary in nature and the membership of which is as faithful a reflection as possible of the religious spectrum in the country. It has advisory functions with the State and individuals and is called on to take part in the drafting or amendment of regulations for the implementation of the law in question. Its members are named to a three-year term by the Ministry of Foreign Affairs and Worship, following consultation with the main denominations and as long as the denominations to which the designated persons belong have no objections, even if they are serving in their personal capacity.

The protection of religious freedom is the subject of chapter V, which governs applications for amparo against acts of the State or individuals. In terms reminiscent of article 1 of Act No. 16986 applicable to amparo proceedings, courts specialized in civil cases and federal commercial cases may hear cases which arise in this regard.

The transitional provisions of chapter VI deal with churches or denominations listed in the registry in conformity with Act No. 21745 to which a delay of two years is granted, starting from the entry into force of the new Act, at the expiration of which time they may ask to be listed in the registry established by that Act if they fulfil the necessary requirements. None the less, denominations with at least 5,000 members and which have continued to be active ever since they were listed in the previous registry are exempt from that requirement.

Article 18 stipulates that religious denominations which, on the date of entry into force of the new Act, enjoy legal personality as civil or other associations that is not in keeping with their religious structure and which are listed in the new registry may transfer assets registered in the name of the association for their own benefit and are exempted from the taxes and duties levied on the transfer and conveyance of property, provided that they obtain the approval of their governing bodies and the transfer takes place within one year of the entry into force of the Act.

As far as existing legislation is concerned, the new Act will repeal Act No. 21745 and amend article 2346 of the Civil Code, in which the term 'dissidents' is replaced by the words 'churches and religious communities or denominations', and article 3740 of the Code, in which the words 'Protestant minister' are replaced by the words 'minister of worship'."

CHINA

28. On 10 June 1994, the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva sent the following general information to the Special Rapporteur:

"In China, citizens enjoy religious freedom without any form of interference from the State, the community or individuals. Believers and non-believers are equal both politically and before the law. They have the same rights and must also assume the obligations established by the Constitution. Constitutional law is unambiguous on this point. Article 36 of the Constitution of the People's Republic of China stipulates that: 'Citizens of the People's Republic of China enjoy freedom of religious belief. No State organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.' Moreover, in China, the National Regional Autonomy Act, the Penal Code, the Civil Code, the Electoral Code, the Military Service Code, the Compulsory Education Act and the Act on the Organization of Rural Committees clearly and specifically prescribe protection for freedom of worship and equal rights for believers. Where violation of religious rights is concerned, article 147 of the Penal Code stipulates that: 'State officials who infringe citizens' freedom of belief or who violate the customs of national minorities may, in the most serious cases, be sentenced to a maximum of two years' imprisonment or to a short-term prison sentence. Anyone who forcibly prevents lawful religious activities, obliges believers to give up their religion, compels a citizen to practise any form of worship, unlawfully closes or demolishes lawful places of worship or other religious installations, infringes democratic rights, or individual freedom and fails in his duty shall be punished by the law.' The above-mentioned codes and decrees constitute the legal guarantees, ensuring respect for and the protection of citizens' freedom of worship.

The Government of China has always respected and protected citizens' right to and freedom of worship. In January 1991, it enacted regulations on the religious activities of aliens living in the territory of the People's Republic of China and a regulation relating to places of worship. The enactment of these two regulations further institutionalizes and legalizes Chinese policy in respect of worship and promotes the global and fair application of religious policy by the State agencies concerned and by their staff.

For many years, the Government has made considerable efforts to promote and protect the development of religion in China. There are 47 religious institutes in China: Buddhist institutes and Koranic schools, the Protestant Faculty of Theology in Nanking, Catholic philosophical and theological institutes and Taoist institutes. Since 1980, approximately 2,000 young people have graduated from these institutes, which have also sent over 100 students to continue their studies in 12 countries and regions of the world. All religions have their own publications; they publish their own religious texts. Over 9 million copies of the Bible have been published. Nowadays, 200,000 people work in the religious field in China. In addition, many people are conducting research and working in connection with religion in all the major sociological and scientific research institutes, as well as in other higher education establishments.

The Government of China has adopted a set of educational measures to ensure that society as a whole understands the importance of citizens' freedom of worship. For example, secondary-school textbooks contain chapters exclusively devoted to China's policy on freedom of worship.

In 1993, one of the subjects in the national higher-education entry exam was the policy of freedom of worship. As a result of the Government's correct religious policy and its strict application, it has been possible for religious activities to continue and increase, international contacts are developing and religion enjoys the support of society as a whole."

CROATIA

29. On 16 June 1994, the Ministry of Foreign Affairs of the Republic of Croatia sent the following information to the Special Rapporteur:

> "The Constitution of the Republic of Croatia, (Part III - Fundamental Freedoms and Human Rights), the Constitutional Law on the Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities and other laws (e.g. Criminal Code) guarantee the fundamental freedoms and human rights to all individuals without distinction of any kind such as race, colour sex, language, religion, political or other opinion, national or social origin, property, birth, education or other status. The fundamental freedoms and human rights may only be restricted by law in order to secure the protection of the fundamental freedoms and human rights of other people and of the public order, morality and health. Even in the case of war or an immediate danger to the independence and unity of the Republic of Croatia, or in the event of some natural disaster, possible restrictions must not cause inequality of persons due to race, colour, sex, religion, language, national or social origin and the right to freedom of thought, conscience and religion may not be restricted or derogated.
>
> Article 40 of the Constitution guarantees the right to freedom of conscience and religion and free public profession of religion and other convictions. Religious communities are free to conduct public religious service and to open schools and social institutions. In the primary and secondary schools religion is being taught since 1991 as an optional subject. During the 1992/93 school year, members of many religious communities e.g. the Catholic Church, Serbian Orthodox Church, Islamic Religious Community, Jewish Community, Adventist Christian Church, Church of Jesus Christ, The Evangelist Church, The Baptist Church, Evangelist Church and the Church of God were able to attend instruction for their respective religions. This programme is financed by the Croatian Government.
>
> The Constitutional Court of the Republic of Croatia has a duty to protect constitutional human rights and freedoms that are guaranteed by the Constitution. So far the Constitutional Court has passed several decisions by which the laws that were not in conformity with the Constitution and guaranteed human rights were amended.
>
> In order to ensure the enjoyment of the right to perform religious service, the Constitutional Court abolished article 27 of the Family Law and permitted marriage in church before one couple is married according the provisions of this law.
>
> According to article 7 of the Constitution conscientious objection is guaranteed to all those who for religious or moral beliefs are not willing to participate in the performance of military duties in the armed forces. Several articles of the Law on Defence were discussed before the Constitutional Court in order to secure proper implementation of article 7.

In spite of its effort to ensure the equality of all religions and to encourage ethnic and religious tolerance, the Republic of Croatia became the victim of a brutal Serbian aggression, which has resulted in a violation of guaranteed freedoms and human rights in respect of many citizens of Croatia. The Republic of Croatia has become a victim of the heinous crime of 'ethnic cleansing' and a deliberate campaign of national and religious hatred instigated by Serbian extremists and the so-called Federal Republic of Yugoslavia (Serbia and Montenegro). Targets of violations were the sacral objects in the Republic of Croatia and, according to incomplete data (because part of the Croatian territory is still beyond control of the Croatian Government), 574 of them were damaged and destroyed by the Serbian extremists and the Yugoslav Army.

The Government of the Republic of Croatia is making every effort to combat prejudice in order to restore ethnic harmony and to encourage tolerance and understanding among all citizens of Croatia, in particular tolerance between Croats and part of Croatia's Serbian minority. One of the measures designed to encourage understanding and tolerance in respect of freedom of religion or belief is the organization of forums for discussion, seminars round table discussions, symposiums and religious manifestations."

SPAIN

30. On 15 June 1994, the Permanent Mission of Spain to the United Nations Office at Geneva sent the Special Rapporteur a communication from the Department of Religious Affairs of the Ministry of Justice and the Interior, dated 24 May 1994, the text reads:

"The guarantees adopted by Spain with regard to freedom of conscience, religion and worship for individuals and for the religious communities to which they belong derive from the 1978 Spanish Constitution and the additional regulations thereto, the most important of which is the Organization Act on Religious Freedom of 5 July 1980.

The Constitution embodies the principles of freedom of religion and equality of religions, which are the basis of relations between the State and citizens, on the one hand, and between the State and religious denominations on the other, subject to no other restrictions than those dictated by respect for the rights of others and the need to preserve public order in a democratic and pluralist society. Freedom of thought, conscience and religion are public freedoms and fundamental rights, which the authorities are required to respect and which, if they are violated, may justify an application for amparo before the Constitutional Court.

The right to religious freedom is manifested in the right of everyone to profess a religious belief, to change his belief or to abandon it and even, if he so wishes, not to profess any belief, without constraint, and in the right not to be compelled to make a declaration about his ideology, religion or belief, not to practise a religion or to receive religious instruction against his will, and not to be discriminated against on the basis of his professed religion or his failure to profess any.

> This legislation protects the right to religious freedom, guarantees its exercise and prevents attitudes and forms of religious intolerance. Violations of religious freedom by individuals or different religious denominations may nevertheless occur, but, whenever they are reported, an investigation is carried out, legal proceedings are instituted and the administrative measures provided for by law are adopted. For example, the Minister of Justice has, on several occasions, requested the Attorney-General to carry out an investigation and, as appropriate, to prosecute the perpetrators of such offences, particularly sect-type groups.
>
> Cooperation between the State and the various religious denominations in conformity with the Constitution is regular and stable and promotes the pursuit of common aims, such as understanding, tolerance and respect for religious freedom. This is also the aim of the Advisory Commission on Religious Freedom, a research, information and consultative body made up of the representatives of the main religions, experts on religious matters and representatives of the Administration."

ETHIOPIA

31. On 21 June 1994, the Permanent Mission of the Transitional Government of Ethiopia to the United Nations Office at Geneva sent the following general information to the Special Rapporteur:

> "In Ethiopia, religion is separate from the State and the Transitional Period Charter of Ethiopia based on the Universal Declaration of Human Rights has recognized individual human rights without any limitation. Under article 1 of the Charter, it is stipulated that every individual shall have 'the freedom of conscience, expression, association and peaceable assembly'. The draft constitution has also recognized the freedom of conscience of every citizen. In order to guarantee the individual human rights and for prevalence of the rule of law an independent judiciary has been established."

GREECE

32. On 14 September 1994, the Permanent Mission of Greece to the United Nations Office at Geneva sent the Special Rapporteur two communications from the Ministry of Education and the Ministry of Justice, the text of which is given below:

> "A. Reply by the Ministry of Education
>
> In Greece, no violence is exercised by members of the prevailing religion towards members of other religions.
>
> Heterodox teachers are appointed to teach in public schools, in accordance with the provisions of Laws 1771/1988 and 1566/1985.

By virtue of the provisions of Laws 1363/1938, 1672/1939 and Royal Decree 20.5/2.61939, licences for Praying Houses are granted to other religious denominations.

No religious orthodox organization in Greece obstructs the right of freedom of religious conscience of any non-orthodox.

B. Reply by the Ministry of Justice

1. The Constitution of Greece guarantees equality in enjoying the fundamental human rights and freedoms. As a rule, guarantees for the protection of these rights are given to all people, irrespective of nationality, race, language and religious or political beliefs.

2. In particular, article 5, paragraph 1, ensures the right to free development of the personality and free participation in the social, financial and political life of the country, provided that the exercise of this right does not infringe upon the rights of others nor does it violate the Constitution and bonos mores.

3. Furthermore, article 13 of the Constitution secures freedom of religion in its two manifestations, i.e. freedom of religious conscience and freedom of worship. Religious freedom is not only secured for Greeks, but also for anyone within the Greek territory.

Article 13 provides that:

> 1. Freedom of religious conscience is inviolable. Enjoyment of individual and civil rights does not depend on the individual's religious beliefs.
>
> 2. All known religions shall be free and their rites of worship shall be performed unhindered and under the protection of law. The practice of rites of worship is not allowed to offend public order or moral principles. Proselytism is prohibited.
>
> 3. The ministers of all known religions shall be subject to the same supervision by the State and to the same obligations towards it as those of the prevailing religion.
>
> 4. No person shall be exempt from discharging his obligations to the State or may refuse to comply with the laws on account of his religious convictions.

From the contents of the above constitutional provision it is clear that freedom of religion is protected in the case of a known religion, the exercise of which does not offend public order or moral principles and on the condition that no proselytism takes place, the latter being explicitly prohibited.

According to Laws 1363/1938 and 1672/1939, proselytism is 'the direct or indirect attempt to penetrate into the religious conscience of a heterodox person, with a view to altering its contents, through all

kinds of offer or promise ... by use of deceptive means, by abusing that person's inexperience or confidence or by taking advantage of his needs, mental weakness or naiveté'.

4. It should also be added here that Greece has ratified almost all international conventions on human rights. In this respect, mention is made of the 1950 European Convention on the Protection of Human Rights and Fundamental Freedoms, article 14 of which provides *inter alia*, that enjoyment of the rights and freedoms recognized by the Convention must be safeguarded without distinction of sex, race, colour, language, religion, etc. Greece has also ratified the 1966 International Convention on the Elimination of All Forms of Racial Discrimination. The above international conventions, as of the time they are sanctioned, constitute domestic law, are *ipso jure* implemented by the Greek courts and public authorities, and have increased validity by virtue of article 28, paragraph 1, of the Constitution, which stipulates that:

> 1. The generally acknowledged rules of international law, as well as international conventions, as of the time they are sanctioned by law and become operative according to the conditions therein, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law. The rules of international law and of international conventions shall be applicable to aliens only under the condition of reciprocity.

On account of that, all persons subject to the jurisdiction of the Greek Courts, be they Greeks or foreigners, are protected by the above domestic and international law provisions and may have recourse, in case of violation of these provisions, before the competent judicial authorities.

Law 927/1979 'on the punishment of acts or activities aiming at racial discrimination' has also established similar protection against discrimination. By virtue of article 24 of Law 1419/84, discrimination based on religion, discrimination on the ground of racial or national origin was added and it is regulated by the provisions of the said Law.

According to the provisions of the above legislation, anyone shall be sentenced to be imprisoned and fined, who:

(a) Publicly, either orally or through the press or by written text or illustrations or by any other means, intentionally instigates acts or activities which may create discrimination, hatred or violence against persons or groups of persons on the sole ground of their racial or national origin or their religion;

(b) Forms organizations or participates in ones seeking organized propaganda or any form of activity aiming at racial discrimination;

(c) Publicly, either orally or through the press or by way of written texts or illustrations or by any other means, expresses offensive views against a person or group of persons, on the ground of their racial or national origin or their religion;

(d) Although professionally offering goods or services, refuses to offer these to a person on the sole ground of his or her racial or national origin or his or her religion, or anyone who links the offering to a condition related to racial or national origin or the religion of a certain person.

5. In the case of violation of the said provisions by State employees in the exercise of their duties, both the State employees and the State itself bear responsibility. State employees bear disciplinary responsibility, criminal responsibility not being excluded according to the law.

As a general rule, civil liability is borne by the State. The implementation of the provisions relevant to civil liability of the State does not depend on the fault (malice or negligence) of the employee who has proceeded to the illegal and detrimental omission or act."

GUYANA

33. On 17 June 1994, the Permanent Mission of the Republic of Guyana to the United Nations Headquarters sent the Special Rapporteur the following general information:

"The Government wishes to state that article 145.1 of the Constitution of the Cooperative Republic of Guyana provides for every person to enjoy freedom of conscience. This freedom is further explained as the freedom of thought and religion; the freedom to change one's religion; and the freedom to propagate one's religion or belief in worship, teaching, practise and observance. The text of article 145 is given below.

In practice, these provisions are evidenced by the annual declaration of national holidays by the Government in observance of major religious events relating to all religious denominations.

The Government further wishes to emphasize that Guyanese practise their religion in a peaceful environment, with due respect for each other's beliefs.

The Government therefore commends the Commission on Human Rights for addressing this issue and reiterates its support for resolution 1994/18.

Protection of freedom of conscience

(Article 145 of the Constitution)

145. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this article the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practise and observance.

> **(2) No religious community shall be prevented from providing religious instruction for persons of that community.**
>
> **(3) Except with his own consent (or, if he is a person who has not attained the age of 18 years, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion which is not his own.**
>
> **(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.**
>
> **(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision:**
>
> **(a) which is reasonably required:**
>
> **(i) in the interests of defence, public safety, public order, public morality or public health; or**
>
> **(ii) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion; or**
>
> **(b) with respect to standards or qualifications to be required in relation to places of education including any instruction (not being religious instruction) given at such places.**
>
> **(6) References in this article to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly."**

INDONESIA

34. On 27 June 1994, the Permanent Mission of Indonesia to the United Nations Office at Geneva sent the following general information to the Special Rapporteur:

> "Before the implementational aspects of the Declaration in Indonesia are addressed, it should first be recalled that Indonesia, as the largest archipelagic State in the world, inhabited by almost 190 million people composed of hundreds of ethnic groups holding a variety of religions and beliefs in God, fully subscribes to the

fundamental principle that religious tolerance is the very foundation upon which the unity of the people of Indonesia rests. The notion of majority and minority does not exist in Indonesia and this is reflected both in the Constitution and in daily life. Indonesia is quite fortunate in that it is endowed with a spirit of religious tolerance which is deeply rooted in the cultural life of its heterogeneous people. Therefore it is only natural that the newly-born State of Indonesia, which was proclaimed in 1945, has crystallized this strong and refined culture into a basic religious policy which fully respects and guarantees freedom of religion and belief. This policy is transparently stipulated in the Pancasila (five basic principles), the state philosophy, the Indonesian Constitution of 1945 and other relevant national regulations.

Pancasila, the philosophical basis of the Indonesian State, comprising five inseparable and interrelated principles, avouches the principle of Belief in the One and Only God as its very first principle. According to this principle, all different religions and faiths in Indonesia are to be centred around one fundamental credo: Belief in God Almighty, the One, Supreme God. The main thrust of this principle is that every human being in Indonesia, no matter from which religious denomination or faith he or she may be, shall respect all other religions and beliefs, for the sake of harmony, tolerance and peace. Equally important is the fact that freedom of religion and belief shall be guaranteed and promoted by the Government. This principle is further reinforced by the 1945 Constitution, especially article 29, paragraph 2, which firmly stipulates that 'the State shall guarantee the freedom of every citizen to adhere to his respective religion and to perform his religious duties in conformity with that religion and that faith'.

Although the basic principles respecting and guaranteeing the freedom of religion and belief are not charted in detail in the Constitution, the People and the Government of the Republic of Indonesia are proud of the fact that the spirit of religious tolerance that has proved crucial in unifying the different religions and beliefs in Indonesia is to be incorporated in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief adopted some years after the Constitution of 1945 came into being.

The Government has taken the necessary administrative and judicial measures to translate those principles contained in the State philosophy and the 1945 Constitution into reality within the framework of the Guidelines of State Policy formulated every five years. As is set down in the 1993-1998 Guidelines of State Policy, one of the main objectives of development in the religious sector is to improve the quality of the moral and religious life of the Indonesian people and community with a view to creating harmony, tolerance and balance in human life just as individuals must strive to achieve them in their relationship with society, the environment and God.

The attainment of this objective has been supported by various core programmes, to be implemented under the coordination of the Ministry of Religious Affairs. These programmes are:

1. The Programme for the Enhancement of the Structure of Religious Life;

2. The Programme for Information and Guidance in Religious Life;

3. The Programme for the Enhancement of the Services of the Haj Pilgrims;

4. The Programme for the Management of Religious Education in the Primary and Secondary Schools;

5. The Programme for the Management of Religious Teaching in Higher Education;

6. The Programme of Education and Training for Religious Staff;

7. The Programme on the Role of Women;

8. The Programme on Religious Research.

In addition, the Government, through the Ministry of Education, has stipulated that the national education system must include compulsory courses on religion from primary school right through to university level. While private institutions are given ample opportunity to establish schools associated with a certain religion, they are prohibited from barring students of other religious denominations from studying in such schools.

It is noteworthy that the core programmes emphasize the role of education as an important element in the comprehensive measures aimed at achieving the objective set by the Guidelines of State Policy. In this regard, education, whether from the strict point of view of the academic curriculum or in the broader context of nation-building, constitutes the most effective means of enlightening people, especially the young generation, on the importance of full respect for, and tolerance of, other religions and their respective disciples, as a part of the cultural heritage of the Indonesian people.

In this connection, the Government of the Republic of Indonesia strongly supports the conclusions of the report of the Special Rapporteur to the Commission on Human Rights at its fiftieth session.

> 'Education could be the key instrument for combating discrimination and intolerance. It could contribute decisively towards instilling the values that focus on human rights and on the emergence, both among individuals and groups, of attitudes and behaviour exhibiting tolerance and non-discrimination and thus participate in disseminating the culture of human rights. The school has a vital place in the educational system. Therefore,

special attention should be paid the world over to what school curricula impart about religious freedom or tolerance particularly. The Special Rapporteur is deeply convinced that lasting progress with regard to tolerance and non-discrimination in the matter of religion or belief could be achieved first and foremost through the school.'

The Government of the Republic of Indonesia is equally supportive of the proposed survey on the possible formulation of school curricula and international school strategy aimed at combating religious intolerance. In this connection, the positive experiences of all States in dealing with the issue may also be utilized as important contributions.

The experience of Indonesia in promoting harmony and religious tolerance as social values is worth sharing. Measures to sensitize and promote such values are first and foremost focused on children and the younger generation, widely recognized as future defenders and guardians of those values. Aside from formal educational institutions, others such as parents, informal leaders, self-help social organizations and traditional religious boarding schools play an important role in undertaking such measures.

In conclusion, while the spirit of religious tolerance and its furtherance and the full enjoyment of freedom of religion and belief are enshrined in the State philosophy and the 1945 Constitution, the Government of the Republic of Indonesia never fails to take necessary and effective measures geared towards achieving the promotion and protection of the freedom of religion and belief and guaranteeing religious tolerance."

JAMAICA

35. On 8 August 1994, the Permanent Mission of Jamaica to the United Nations Office at Geneva sent the Special Rapporteur the comments of the Department of the Attorney-General and Minister of Legal Affairs, the text of which reads:

"Jamaica's major legislation in the area of the implementation of the 1981 Declaration lies in the Constitution (Sect. 21), which states:

(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this Section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a minor, the consent of his parent or guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion or a religious body or denomination other than his own.

(3) The Constitution of a religious body or denomination shall not be altered except with the consent of that governing authority of that body or denomination.

(4) No religious body or denomination shall be prevented from providing religious instructions for persons of that body or denomination whether or not that body or denomination is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such course of education.

(5) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required:

(a) in the interest of defence, public safety, public order, public morality or public health,

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion.

This section is one of the entrenched provisions of the Constitution which means in this case that should any legislation be passed to alter that section, it is subject to the following process:

(i) a period of three months must elapse between the introduction of the Bill into the House of Representatives and the commencement of the first debate on the whole text of that Bill in that House and a further period of three months has elapsed between the conclusion of that debate and the passing of that Bill by that House.

(ii) the Bill shall not be deemed to be passed in either House unless at the final vote thereon it is supported by the votes of not less than two thirds of all the members of that House - a much more stringent requirement than for Bills altering sections of the Constitution not Entrenched which require the votes of a majority of all the members of that House.

Notwithstanding the provisions of subsection (6) of 21, it is not anticipated that laws would be passed derogating from the right of freedom of religion.

Should a person feel that his freedom of religion is being infringed, he may proceed under Section 25 of the Constitution, which reads as follows:

(1) Subject to the provisions of subsection (4) of this section, if any person alleges that any of the provisions of sections 14 to 24 (inclusive) of this Constitution has been, is being or likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that persons may apply to the Supreme Court for redress.

(2) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of the said sections 14 to 24 (inclusive) to the protection of which the person concerned is entitled:

Provided that the Supreme Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) Any person aggrieved by any determination of the Supreme Court under this section may appeal to the Court of Appeal.

(4) Parliament may make provision, or may authorize the making of provision, with respect to the practice and procedure of any court for the purposes of this section and may confer upon that Court such powers or may authorize the conferment thereon of such powers, in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

Other items of legislation in this regard may be the following:

'18 (1) It shall not be required as a condition of admission or attendance of any pupil in a public educational institution:

(a) that he shall attend or abstain from attending any Sunday School or place of religious worship;

(b) that he shall, if his parent objects, attend any religious observance or any instruction in religious subjects at such institution or elsewhere;

(c) that he shall attend such institution on any day specially set apart for religious worship by the religious body to which he belongs.

(2) If the parent of any pupil attending a public educational institution requests that such pupil be excused from attendance at any religious observance or any instruction in religious subjects at such institution or elsewhere, then, until such request is withdrawn, the pupil shall be excused from such attendance without forfeiting any of the other benefits of such institution.

(3) Where the parent of any pupil who is a boarder at a public educational institution requests that the pupil be permitted to attend worship in accordance with the tenets of a particular religious denomination on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs, or to receive religious instruction in accordance with such tenets outside school hours, the Managers or Governors of the institution shall make arrangements for affording to the pupil reasonable opportunities for so however, that such arrangements shall not entail expenditure by the Minister of the Managers or Governors.

(4) Subject to the provisions of this section, the school day in every public educational institution shall include time for collective worship on the part of all pupils in attendance at the institution, and the arrangements made therefore shall provide for a single act of worship attended by all such pupils unless, in the opinion of the Managers or Governors, the premises of the institution are such as to make it impracticable to assemble the pupils for such purpose.

(5) A copy of this section printed in large type shall be kept posted up in a conspicuous place in every public educational institution.'

Section 2 of the Disabilities Removal (Jews) Law 1830 which:

> 'All persons professing the Jewish religion are entitled to exercise and enjoy the same rights, privileges, immunities and advantages to which Her Majesty's other natural born subjects are entitled within this island, any law, custom or usage to the contrary notwithstanding. Provided always that nothing in this law contained shall be construed to impeach or affect any title to real estate or other right or title whatsoever or of any person being of the Jewish religion or persons claiming under persons of the Jewish religion.'

Section 5 (h) of the Towns and Communities Act states that it is an offence if any person

> 'shall wilfully disturb any meeting or assembly, or any congregation assembled for religious worship, or for any religious service or rite in any burial ground, or disturb or molest any person thereat.'

(4) The Muslim Marriage Act and the Hindu Marriage Act may be viewed as examples of accommodating within Jamaica other religious and attendant practices. In the rear of marriage, a marriage valid under other religions might, due to lack of compliance with regard to form or capacity under common law, be regarded as null and void under common law. This Act attempts to improve on that situation and is an example of a positive move to remove some amount of what might well be called discrimination."

LUXEMBOURG

36. On 21 June 1994, the following general information was sent to the Special Rapporteur:

"The Constitution of Luxembourg guarantees freedom of worship, freedom to practise religion in public, freedom of conscience and freedom to express one's religious opinions. However, offences committed in connection with the exercise of these freedoms are punishable. Criminal penalties apply to persons who compel or prevent one or more persons from worshipping, from attending worship or from observing certain religious festivals or certain days of rest."

MOROCCO

37. In July 1994, the Special Rapporteur received the following general information from the Permanent Mission of the Kingdom of Morocco to the United Nations Office at Geneva:

"The Ministry for Awqaf and Islamic affairs has the honour to recall that the Constitution, line of conduct, legislation and traditions of the Kingdom of Morocco are all based on respect for human rights and are in harmony with the spirit of tolerance of Islamic law, which was the first to consecrate and encourage respect for human rights and to call for tolerance and coexistence within that spirit, before any constitutions, any texts of positive law or any international charters and declarations.

Furthermore, since these principles are applied to Muslims and non-Muslims alike, under Islam the non-Muslim subjects of a Moslem State or a State of Moslem obedience enjoy the same rights and incur the same duties as Muslims. The State has to defend them in the same way as Muslim subjects and apply the same laws to both, except in the case of laws relating to religion, where the State respects the beliefs of non-Muslims.

These principles are clearly embodied in the Koran, one verse of which states that there should be no constraint in religion and that right will be distinguished from wrong.

While the note attached to the Special Rapporteur's letter mentions the fact that many countries experience serious conflicts and demonstrations and painful outbreaks of violence caused by religion or beliefs, our country, thank God, has been known throughout its history as an oasis of security, stability, serenity and peace, since Moroccans from generation to generation have kept the same religion, persuasion and belief while respecting other religions and beliefs among them and rejecting any form of racial discrimination, religious intolerance and religious bigotry."

MONACO

38. The Special Rapporteur received the following general information on 10 June 1994:

"Title III, article 23, of the Constitution of 17 December 1962, concerning fundamental rights and freedoms and freedom of religion and public worship, is worded as follows:

Freedom of religion and of public worship, and also freedom of expression in all matters, shall be guaranteed, subject to the right to prosecute any offences committed in the exercise of the said freedoms. No one may be compelled to participate in the rites or ceremonies of any religion or to observe its days of rest.

The Prince's Government has always ensured that this constitutional principle is respected. As a result, no violation has been found and hence none reported to any court.

Moreover, all bodies or associations of a religious nature have, upon request, obtained whatever support they wanted from the Monegasque authorities.

Some examples of requests, mainly from Catholic educational establishments, which have been taken into consideration, include:

The free offer of premises (the cost of management and maintenance being borne by the administrative services);

The stipends of the Catholic clergy are fully borne by the State;

Operating subsidies are allocated;

Non-Catholic cultural associations are provided with free facilities for their activities, especially if these are charitable;

Private education of a religious nature receives an annual subsidy from the State; this came to 36 million francs in 1994 and covered the full operating, equipment and investment costs of three schools."

PHILIPPINES

39. On 4 August 1994, the Permanent Mission of the Philippines to the United Nations Office at Geneva transmitted to the Special Rapporteur the following comments by the Department of Justice and the National Security Council, both dated 2 June 1994; the text of the comments is as follows:

"A. Comments of the Department of Justice

1. No restrictions of any kind may be imposed upon man's inner thoughts or moral consciousness or his attitude towards the universe or its creator. However, external manifestations of thought, conscience or religion may be subject to legitimate limitations. On this matter, the 1987 Constitution of the Philippines provides that:

'No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. The free exercise and enjoyment of religious beliefs and worship without discrimination or preference shall always be allowed. No religious test shall be required for the exercise of civil or political rights.' (Sect. 5, art. 111).

As aptly stated in the case of Gonzales vs. Central Azucarera de Tarlac Labor Union:

'Members of the Inglesia ni Kristo cannot be dismissed from employment by reason of their resignation from a labor union with a closed shop agreement with the company. The law granting such exemption on religious grounds is constitutional. To that all-embracing coverage of the closed shop agreement, Republic Act 3350 introduced an exception, when it added the following proviso: but such agreement shall not cover members of any religious sect which prohibits affiliation of their members in any such labor organization.' (139 SCRA 30).

In the case of German vs. Barangan, it was held that:

'Exercise of right to religious freedom must be done in good faith without any ulterior motive. While it is beyond debate that every citizen has the undeniable and inviolable right to religious freedom, the exercise thereof, and all of the fundamental rights for that matter, must be done in good faith. As article 19 of the Civil Code stipulates:

"Every person must, in the exercise of the rights and in the performance of his duties ... observe honesty and good faith. Thus, freedom to translate religious belief into action may be curtailed only to the extent warranted by clear and present danger".' (135 SCRA 514)

2. The Revised Penal Code of the Philippines provides for the punishment of any public officer or employee who prevents or disturbs the ceremonies or any manifestation of any religion or performs acts notoriously offensive to the feelings of the faithful. It provides:

> 'The penalty of prison correctional in its minimum period shall be imposed upon any public officer or employee who shall prevent or disturb the ceremonies or manifestation of any religion.
>
> If the crime shall have been committed with violence or threats, the penalty shall be prison correctional in its medium and maximum periods.' (art. 132, Revised Penal Code)
>
> 'The penalty of arresto mayor in its maximum period to prison correctional in its minimum period shall be imposed upon anyone who in a place devoted to religious worship or during the celebration of any religious ceremony shall perform acts notoriously offensive to the feelings of the faithful.' (art. 133, Revised Penal Code)

3. The Civil Code of the Philippines subjects a person to damages for obstructing or violating the freedom of religion, in these terms:

> 'Any public officer or employee or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages.
>
> '(1) Freedom of religion
>
> ...'
>
> (Art. 32, Civil Code of the Philippines).

4. The following provisions of the 1987 Constitution of the Philippines guarantee the separation of Church and State and the freedom of religious profession and worship.

> 'The separation of Church and State shall be inviolable.' (sect. 6, art. II)
>
> 'Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques and non-profit cemeteries, and all lands, buildings and improvements actually, directly or exclusively used for religious, charitable or educational purposes shall be exempt from taxation.' (sect. 28 (3), art. VI)
>
> 'No public money or property shall ever be appropriated, applied, paid or used, directly or indirectly, for the use, benefit or support of any sect, church, denomination, sectarian institution, or system or religion or for the use, benefit or support of any priest, preacher, minister, or other religious teacher or dignitary as such, except when the priest, preacher,

minister or dignitary is assigned to armed forces, or to any penal institution or government orphanage or leprosarium. (sect. 29 (2), art. VI)

'As the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools within the regular class hours by instructions designated or approved by the religious authorities or the religion to which the children or wards belong, without additional cost to the Government' (sect. 3 (3), art. XIV)."

"B. Comments of the National Security Council

1. In keeping with our Constitution and in line with its commitment to promote the people's welfare, the Philippines Government has adhered to guaranteeing full respect for human rights, including the right and freedom to exercise one's religious beliefs.

2. The Government, led by President Fidel V. Ramos, who comes from the minority Protestant faith, has respected the beliefs and practices of the various religious groups in the country. It has reached out to all sectors of society regardless of their religious persuasions, from the dominant Catholics to the minority Muslims and indigenous sects.

3. Under the present Administration, no one has ever been penalized or barred from exercising his/her civil and political rights because of his/her religious beliefs.

4. Filipinos, in general, have come to terms with the existence of various religious groups in the country and have accepted as a fact of life their legitimate manifestations and expressions. The proliferation of literally thousands of new indigenous or independent churches (as distinguished from the established mainline denominations) best indicate the Filipinos' religious tolerance and the Government's steadfast policy to safeguard without discrimination the exercise of religious freedoms. To a large extent, the development of such a tolerant predisposition may be traced to the liberal democratic system in the country and to the educational curriculum that championed respect for the belief of others.

5. An independent Commission on Human Rights has authority to investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights. The Government has not been made to account for any complaint on religious intolerance or discrimination.

6. From the foregoing, we could glean that a confluence of factors account for the fostering of religious tolerance and harmony. These include:

6.1 The Government's political resolve to guarantee religious rights and freedoms;

6.2 The people's level maturity stemming from their recognition that religious pluralism is not or should not be a hindrance to social unity;

6.3 Education, in its formal and informal sense, as a means of instilling respect and understanding for the beliefs of other people;

6.4 The creation of an independent watchdog that monitors compliance with human rights laws and convention and investigates complaints of human rights violations."

QATAR

40. On 21 July 1994, the Special Rapporteur received the following general information from the Permanent Mission of the State of Qatar to the United Nations Office at Geneva:

"The provisional Constitution of the State of Qatar, as amended, stipulates as follows:

Article 9: All persons shall enjoy equal public rights and shall be subject to equal public duties without distinction on grounds of race, sex or religion.

Article 13: The freedom of publication and the press shall be guaranteed in accordance with the law.

Moreover, the Penal Code of the State of Qatar, published under Act No. 14 of 1971, stipulates as follows:

Article 306: All persons destroying, degrading or desecrating a place of worship or any object held sacred by any human community whatever for the purpose of offending that community's religion, or who commit such acts knowing that that human community is entitled to consider that such destruction, degradation or desecration constitutes an offence to its religion, shall be liable to a prison sentence of not more than two years or a fine of not more than 2,000 rials or to both these penalties."

ROMANIA

41. On 29 June 1994, the Special Rapporteur received the following general information:

"After the revolution of December 1989, religion in Romania achieved a status of real autonomy. At present, denominations are free and independent; the State recognizes and guarantees the exercise of human rights, including religious freedoms. All denominations are considered equal, before the law and the public authorities, with no privileges or discrimination.

In Romania, 15 denominations have been given official recognition: the Romanian Orthodox Church, the Romanian Church United to Rome (Greek-Catholic), made official by decree No. 9 of the Provisional Council of National Union (CPUN) of 30 December 1989, the Roman Catholic Church, the Reformed Church, the Augustinian Evangelical Church, the Synodic-Presbyterian Evangelical Church, the Unitarian Church, the Armenian Church, the Christian Church of Ancient Rite, the Muslim religion, the Mosaic religion, the Baptist Church, the Seventh Day Adventist Church, the Pentecostal Church and the Christian Church After the Gospel. There are some further 120 religious associations which are either independent or attached to the various denominations.

Denominations are free at present to appoint their leaders and ministers, with no State interference. Church ministers are trained in theological schools, faculties and institutes available to the denominations in accordance with their real requirements. Denominations are free to use the mother tongue of believers in religious services.

Freedom of conscience and religion is guaranteed by the Romanian Constitution, which establishes the conditions for the expression of this freedom in its article 29:

Article 29:

1. Freedom of thought, opinion, and religious belief may not be abridged in any form whatsoever. No one may be compelled to embrace an opinion or religion contrary to his own beliefs.

2. Freedom of conscience shall be guaranteed. It shall be exercised only in a spirit of tolerance and mutual respect.

3. Religious denominations shall be free and organized in accordance with their own statutes, in compliance with the law.

4. Any forms, means or acts of religious hatemongering are prohibited in the relations among denominations.

5. Religious denominations shall be autonomous from the State and shall enjoy its support, including facilitation of religious assistance in the army, in hospitals, prisons, nursing homes and orphanages.

6. Parents or legal tutors have the right to ensure such education as is in accordance with their own convictions to the minors for whom they bear responsibility.

Article 32 of the Constitution guarantees the right to religious education, as follows: the State shall ensure freedom of religious education, in accordance with the specific requirements of each religious denomination. In public schools, religious education shall be organized and guaranteed by law.

In accordance with constitutional principles, a new draft law on religious denominations and religious freedoms in Romania has been prepared and will be submitted to the Romanian Parliament for debate after consultation with the institutions concerned.

In 1992, a Religious Affairs Department was set up under Government decree No. 595; within the central administration, this institution will be responsible for supporting all religious denominations on an equal basis, providing a link between the religious denominations and the central or local bodies of the public administration as a means of solving their particular problems and contributing to the development of education in denominational schools. Through this department, the State contributes monthly amounts for the payment of salaries of denominational staff and theological teachers and each year allocates funds for the construction, restoration and conservation of places of worship and religious property administered by the latter.

Religious education has spread and diversified considerably in Romania.

Starting in the 1990/1991 school year, moral and religious education, referred to as 'religion', was introduced as an optional subject in State schools, in classes I to VIII. In the 1993/1994 school year, 86 per cent of pupils in classes I to VIII attended religion classes. All religious denominations recognized in Romania organize religious studies, in accordance with parents' options. For the 1993/1994 school year, 89.81 per cent of options were Orthodox, 3.9 per cent Roman Catholic, 2.9 per cent Reformist, 0.5 per cent Greek-Catholic, 0.9 per cent Pentecostal, 0.4 per cent Baptist and Adventist and 0.3 per cent Evangelical.

Religious teachers are recommended by the various religious denominations and paid either by the Ministry of Education for classes or study groups of more than 10 pupils or by the religious denominations for groups of fewer than 10 pupils.

Religious teaching has been incorporated into school texts and the school curriculum.

In secondary education, optional classes in religious history may be held for classes IX to XIII.

Starting from the 1990/1991 school year, all religious denominations in Romania have had the possibility, at their request, of holding theological seminars in secondary schools and theological institutes. Nearly all the religious denominations (except the Ancient Rite Christians and the Mosaics) have organized theological teaching institutions, which are entirely financed by the Romanian State.

The studies followed by pupils in State educational establishments and in theological institutions are equivalent.

A National Advisory Commission for Pre-University Theological and Religious Education, including representatives of the religious denominations, the Religious Affairs Department and the Ministry of Education, has been set up to supervise the application of the law concerning religious education.

Furthermore, religions may organize the religious education of their believers through any other means they deem necessary, with no interference from the State.

In a spirit of inter-denominational tolerance, a major contribution to the religious education of young people is the weekly programming by the national television station, which provides up-to-date information on the activities of the various religious groups in Romania and abroad.

Subsequent to the Revolution of December 1989, the Romanian State initiated a series of measures to redress the abuses of the former regime. One of these measures was Decree-Law No. 9, dated 31 December 1989, officially recognizing the Romanian Church United with Rome (Greek-Catholic).

Decree-Law No. 126 of 24 April 1990 was adopted by the Provisional Council of National Union to settle the matter of the property formerly owned by the Romanian Church United with Rome. It stipulates that the assets that were taken over by the State under Decree No. 358/1948 and are currently State property are, with the exception of the landed estates, returned to the Romanian Church United with Rome in their present condition.

In conformity with this Act, a mixed commission composed of representatives of the Government and of the Greek-Catholic Church identified a portion of the Church's former property. As a consequence, the Government adopted Decree No. 466/1992, by which 80 buildings and urban plots of land were restored to the Greek-Catholic Church.

Decree No. 126/1990 also specifies that a joint committee made up of representatives of the clergy of both denominations will establish the legal status of churches and of church halls that formerly belonged to the Greek-Catholic Church and are currently administered by the Orthodox Church."

SUDAN

42. On 21 June 1994, the Permanent Mission of the Republic of the Sudan transmitted to the Special Rapporteur, for information, copies of Constitutional Decrees Nos. 7, 8 and 9, issued by the Revolution Command Council in 1993, a copy of the Religious Affairs and Wakfs* Act, 1980, and of the Non-Muslims Marriage Act, 1926. These texts have been summarized or quoted in the following paragraphs.

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* Gift or bequest of goods or property to the Islamic State in perpetuity for religious works or the public weal.

43. Chapter I of Constitutional Decree No. 7 entitled "Principles, regulations and constitutional developments" contains the principles guiding the State's policies, which are divided into seven sections: 1. Religion; 2. National unity; 3. Form of government; 4. The judicial system; 5. The economy; 6. Society; and 7. Foreign policy. Part 1, which directly concerns religion, reads as follows:

> "1. Religion
>
> Islam is the guiding religion of the largest majority of the Sudanese people. It is the basis of the laws, regulations and policies of the State. But other revealed religions like Christianity, or religious traditional beliefs may freely be adopted by anyone, and the freedom of religion is to be guaranteed by the State and its laws."

Chapter II, part 1, of Decree No. 7 stipulates:

> "1. Rights and duties
>
> It is the duty of a religious citizen to be honest and truthful, and he has the right to choose his religion without any compulsion, and not to be discriminated against because of his faith, beliefs, social or financial standing. It is the duty of the citizen to contribute his thoughts and advice, and it is his right to have freedom of expression and to participate in public life in accordance with the law. It is the citizen's right to earn his living through fair competition, and not to have his possessions confiscated except in accordance with the law. The citizen has the right to freedom of movement and residence."

Chapter III of the Decree deals with the President of the Republic, the Vice-President, the States' Sectoral Congresses and the General Congresses of the Political System, elections and the organization of the National Assembly and the elected States' assemblies.

44. Constitutional Decree No. 8 is entitled "Appointment of the President of the Republic" and Constitutional Decree No. 9, "Transfer of powers".

45. The Act entitled "Religious affairs and Wakfs Act, 1980" consists of three parts: I. Preliminary; II. The general structure of the religious affairs and Wakfs; and III. General provisions".

Part I stipulates as follows:

> "2. In this Act, unless the context otherwise requires:
>
> 'The Council' means the High Council of Religious Affairs and Wakfs;
>
> 'General Secretariat' means the technical and administrative organ entrusted with implementing the policies of the Council;

'Chairman of the Council' means the Chairman of the High Council of Religious Affairs and Wakfs, and Wakfs Trustee;

'Province Council' means the Council of Religious Affairs and Wakfs which is established under this Act in each province.

3. The State shall patronize the religious affairs and Wakfs by support and direction."

The following are excerpts from part II:

"4. The general structure of the religious affairs and wakfs shall be constituted of the following:

(a) the High Council of Religious Affairs and Wakfs;

(b) the Province Council of Religious Affairs and Wakfs;

(c) Religious Affairs Committees constituted by the Council of the Province Council;

(d) Wakfs Committees constituted by the Council or the Province Council;

(e) Mosques Committees constituted by the Council or the Province Council;

(f) the General Secretariat which assumes the implementation of the functions assigned to the Council.

5. (1) There shall be established a Council to be known as 'The High Council of Religious Affairs and Wakfs', which shall have corporate personality, perpetual succession and a common seal. It may sue or be sued in its own name.

(2) The seat of the Council shall be in Khartoum.

(3) The Council shall be constituted as follows:

(a) Chairman of the Council, to be appointed by the President of the Republic who shall specify his emoluments by an order under his hand;

(b) the Secretary-General of the Council to be appointed by the President of the Republic in consultation with the Chairman of the Council;

(c) any other members appointed by the President of the Republic in consultation with the Chairman of the Council.

(4) The term of membership of the Council shall be three years.

(5) The Council shall be responsible to the President of the Republic for the performance of its business.

(6) The Council shall aim at the preservation of religious values and deepening their understanding and practice in society for approaching God and benefiting the society. It also aims at strengthening the personal motives in individuals for serving the religion, the country and humanity, at dissemination of the spirit of fraternity, love and self-denial among citizens and development of their spiritual capabilities and rallying them as an incentive towards what is ideal and best and as safeguard against the tyranny of materialistic values and all the drawbacks of development. It strives, in this field, to preserve the cultural identity of the nation and direct it to achieve the Islamic style in its life together with due regard to the rights of non-Muslims, abiding in the same by ease, graduality and flexibility. Without prejudice to the generality of the foregoing the Council shall have the following objects:

(a) dissemination of public and specialized religions education and consolidate it at all its levels in preparation of the learned in the religion to perform their message of religious enlightenment and guidance in implementation of the objects of the Council;

(b) dissemination of sound religious awareness, preservation of the cultural heritage of the nation and instilling the religious values in the conscience of individuals and groups by the various means of publicity, information and culture;

(c) rallying potentialities and capabilities to patronize the religious utilities by self effort at the level of the various classes of the society;

(d) striving to encourage research and publication in the field of religious studies in general;

(e) encouraging the citizens to entrust their property for charitable goodness and benevolent works.

The Council shall have the following functions:

(a) laying down the general policies, plans and programmes for the religious affairs and wakfs;

(b) general supervision of religious institutions and places of worship and organizing the activity and employing them in the most ideal way to serve the objectives of the religion in worship and dealing;

(c) organizing of the religions message, developing its methods, laying down its programmes and training the missionaries therefor together with patronizing the religions research and participation in the conferences pertaining to religious work;

(d) general supervision of religious activity, directing it and making the regulations organizing the same;

(e) management of the Islamic trusts;

(f) supervising the pilgrimage affairs;

(g) organizing the specialized religious education and developing the same;

(h) patronizing the Christian affairs and other religious and good beliefs in cooperation with the public organizations and institutions in this field;

(i) performing the functions required by the participation of the Sudan in the Islamic African Centre in Khartoum;

(j) laying down the general budget of the Religious Affairs and Wakfs and submitting the same to the competent bodies for approval;

(k) laying down the plans and programmes for places of worship, maintaining and organizing the same to perform their message in all the educational and cultural affairs and providing religious guides and directors and training them;

(l) developing and investing the trust's property and utilizing their returns in the purposes for which they are entrusted and the other lawful ways;

(m) laying down the plan and programme to implement the national plan in the field of Religious Affairs and Wakfs;

(n) the Council may obtain by way of gift, legacy or otherwise any money or other property whether immovable or movable and keep the same and deal therein in any way of lawful dealing to achieve its objects."

46. The Non-Muslim Marriage Act, 1926 contains the following sections: "Application", "Invalid and voidable marriages", "Effect of marriage under the Act", "Marriage districts - Registrars - Places registered for celebration of marriages", "Preliminaries to marriage", "Consent to marriage", "Celebration of marriage", "Register and evidence of marriages", "Jurisdiction of civil courts", "Penalties" and "Miscellaneous". The section entitled "Invalid and voidable marriages" contains subsections indicating the grounds for nullifying a marriage; the following are the titles of these subsections: "Previous subsisting marriage"; "Impediments on account of consanguinity or affinity"; "Informality"; "Consent of party to marriage defective"; "Marriage by male under fifteen or female under thirteen".

SRI LANKA

47. The following information of a general nature was transmitted to the Special Rapporteur on 20 November 1994:

> "Sri Lanka is a multiracial and multireligious nation. According to the census of 1992, the total population of the island was 17.6 million. The composition of the population according to religion is as follows:
>
> | | |
> |---|---|
> | Buddhists | 69.3% |
> | Hindus | 15.5% |
> | Christians | 7.6% |
> | Muslims | 7.5% |
> | Others | 0.1% |
>
> Throughout many centuries these people have lived together in peace and harmony. Buddhist temples, Hindu kovils, Muslim mosques, and Christian churches exist side by side in Sri Lanka and members of one community not only pay their respect to the others, but most often invoke the blessings of other faiths. Thus many Buddhist shrines have sections devoted to Hindu gods and statues of Lord Buddha are found in Hindu shrines.
>
> Days of significance to Buddhists, Hindus, Christians and followers of Islam have all been declared public holidays. (Thus all full-moon poya days, Sinhala and Tamil New Year, Deepavali, Maha Sivarathri, Thai Pongal, Hadj, Ramazan, the Prophet Mohamed's Birthday, Christmas, Good Friday and Easter are holidays in Sri Lanka.) In fact, even in the prisons in Sri Lanka provision has been made from the early 1930s for practice of all the major religions.
>
> Religious studies form part of the school curriculum from grades 1 to 10 and all students have the opportunity of learning their religion in school.
>
> The State print and electronic media give equal emphasis to all religions and celebrate festivals of all the religions with appropriate news coverage and programmes.
>
> Constitutional provisions
>
> The Government of Sri Lanka is firmly committed to promoting and fostering all religions.
>
> The directive principles of State policy which guide Parliament, the President and the Cabinet of Ministries in the enactment of laws and governance of Sri Lanka provide that the State shall strengthen national unity by promoting cooperation and mutual confidence among all sections of the people, including racial, religious, linguistic and other groups,

and shall take effective steps in the field of teaching, education and information in order to eliminate discrimination and prejudice (art. 27 (5) of the Constitution).

Furthermore, article 27 (11) of the Constitution states that the State shall create the necessary economic and social environment to enable people of religious faiths to make a reality of their religious principles. Within this policy framework, the fundamental rights chapter of the Constitution contains a number of specific articles which seek to protect religious freedom. Article 10 of the Constitution guarantees the freedom of thought, conscience and religion to every person in Sri Lanka. Article 12 (2) provides that no citizen shall be discriminated against on grounds of religion. Article 12 (13) provides that no person shall be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels or places of public entertainment on grounds of religion. Article 14 guarantees the freedom to manifest a religion or belief by practice. Article 15 (2) states that freedom of speech and publication may be restricted in the interest of racial and religious harmony. This provision is particularly important since it recognizes that partisan and defamatory speeches which might incite religious antagonism and hatred must be prevented in a multireligious society.

Remedies

1. Supreme Court jurisdiction

Article 17 read together with article 126 of the Constitution provides for the enforcement of these rights. Infringement or imminent infringement of these rights whether by executive or administrative action is justiciable in the highest court in the land and the court has a wide discretion with regard to the relief it may grant. It is noteworthy, however, that there has not been a single allegation of discrimination on the ground of religion before the Supreme Court of Sri Lanka. This is eloquent testimony to the high degree of religious tolerance which prevails in Sri Lanka.

2. The Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights

Apart from the Supreme Court, the Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights has the authority to hear and adjudicate upon allegations of religious discrimination by means of mediation and conciliation. Where settlement is not possible it is authorized to report the matter to the President.

The Commission in 1992 heard seven complaints of religious discrimination out of a total of 882 complaints. According to the Director of Human Rights, religious discrimination was not established in any of the cases.

Offences against religion

The Penal Code of Sri Lanka makes the following acts relating to religion criminal offences punishable with imprisonment or a fine or both:

1. Injuring or defiling a place of worship with intent to insult the religion of any class of persons (sect. 290).

2. Any act in relation to any place of worship or object held sacred by any class with the intention of wounding the religious feelings of any class (sect. 290A).

3. Voluntarily disturbing a religious assembly (sect. 291).

4. Uttering any words, sounds or making any gestures in the presence of any person with the deliberate intention of wounding religious feelings (sect. 291A).

5. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs (sect. 291B)."

SWEDEN

48. On 17 June 1994, the Permanent Mission of Sweden transmitted to the Special Rapporteur information broadly outlining the constitutional and legal system in Sweden for the guarantee of freedom of thought, conscience, religion and belief; the text reads:

> "Chapter 1 of the Instrument of Government (IG), one of the Swedish constitutional laws, contains a section (2) which deals with certain social, economic and cultural rights and lays down the fundamental basis upon which the State should exercise public power. It reads as follows:
>
> > 'Public power shall be exercised with respect for the equal worth of all and for the freedom and dignity of the individual.
> >
> > The personal, economic and cultural welfare of the individual shall be fundamental aims of public activity. In particular, it shall be incumbent upon the public administration to secure the right to work, housing and education, and to promote social care and social security and a good living environment.
> >
> > The public administration shall promote the ideals of democracy as guidelines in all sectors of society. The public administration shall guarantee equal rights to men and women and protect the private and family lives of the individual.
> >
> > Opportunities should be promoted for ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own.'

Chapter 2 of the IG contains an enumeration of a number of legally binding fundamental rights and freedoms. Some of them are absolute, and may only be restricted or abolished by means of an amendment to the Constitution. One of these absolute rights and freedoms is freedom of worship. (Sect. 1:6).

Section 2 provides for protection against all coercion to divulge an opinion in any political, religious, cultural or other similar connection and protection against all coercion to participate in any meeting for the formation of opinion or in any demonstration or other expression of opinion or to belong to any political association, religious congregation or other association for opinions of the nature referred to in the first sentence.

Among other rights and freedoms guaranteed by chapter 2 of the IG but which may be restricted through law enacted by Parliament are freedom of speech (sect. 1:1); freedom of information (sect. 1:2); freedom of assembly (sect 1:3) and freedom of association (sect. 1:5).

The scope for restricting these constitutional rights is strictly limited. Under chapter 2, section 12 of the IG the restriction must satisfy a purpose acceptable in a democratic society. It must not exceed what is necessary with regard to the reason which has prompted it, nor may it pose a threat to the free formation of opinion as one of the foundations of a democracy. A constitutional right or freedom may not be restricted solely because of a citizen's political, religious, cultural or similar views. Finally, no restriction may be imposed which is discriminatory.

Further limitations on the possibility of imposing restrictions apply to certain constitutional rights and freedoms. For example, restrictions of freedom of association are permitted only with respect to organized groups of a military or similar nature, or which engage in racial persecution.

There are also special rules instructing Parliament how to enact laws which restrict these rights and freedoms.

The rights and freedoms laid down in chapter 2 of the IG apply, with a few exceptions, to the community at large, i.e. society. This means that central government (the State) and local authorities (the municipalities) may not invade anyone's rights and freedoms by imposing punishment or exercising physical force unless chapter 2 so permits. Protection from assault by private persons is to be found in ordinary law, inter alia the provision of the Penal Code dealing with punishment for persecution of a population group, whereby a person threatens or expresses contempt for a population group or other such group with allusion to its race, skin colour, national or ethnic origin, or religious faith.

Chapter 2 of the IG also prohibits laws and other regulations which disfavour anyone who because of race, skin colour or ethnic origin belongs to a minority (sect. 15).

The clauses on rights and freedoms in the IG chiefly protect persons who are Swedish citizens. Aliens in Sweden are on a fully equal footing with Swedish citizens with regard to some of the rights and freedoms (sect. 20, para. 1), inter alia, protection against all coercion to participate in any meeting for the formation of opinion or in any demonstration or other expression of opinion, or to belong to any religious congregation or other association (sect. 2, second sentence) and protection against discrimination on grounds of race, skin colour or ethnic origin (sect. 15).

Concerning most of the other rights and freedoms, aliens are ranked equally with Swedish citizens, except as otherwise prescribed by special rules of law (sect. 20, para. 2). Among others freedom of speech, information, assembly, association and worship (sects. 1:1-3 and 1:5-6) and protection against all coercion to divulge an opinion (sect. 2, first sentence).

In this context it should also be mentioned that the Swedish Parliament recently adopted a law which incorporates the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols Nos. 1-8 and decided that the former Swedish reservation to the second sentence in article 2 of the first protocol concerning the respect of the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions, shall be deleted.

The Swedish dualistic system implies that Sweden's international undertakings have to be implemented by incorporation or transformation into internal law or administrative regulations in order to be enforced by the authorities concerned. Therefore the incorporation means that, when the law enters into force in January 1995, it will be a part of the Swedish internal law and that private individuals can rely directly on the Convention before Swedish courts, tribunals and administrative authorities will be able to apply it in their decisions.

Since 1986 there has been an Ombudsman against Ethnic Discrimination (DO). The DO's field of activity encompasses the whole scope of society except for private life. The DO shall pay special attention to ethnic discrimination on the labour market."

VENEZUELA

49. On 3 August 1994, the Permanent Mission of Venezuela to the United Nations Office at Geneva transmitted to the Special Rapporteur the observations of the Government of Venezuela on the question of religious intolerance, the text of which reads as follows:

"Under Venezuelan law, the basic provisions on this question are set forth in the Constitution and Penal Code.

Article 65 of the Constitution stipulates that everyone has the right to profess his religious faith and to practise his religion privately or publicly, provided it is not contrary to the public order or to good customs. Religious faiths shall be subject to the supreme inspection of the National Executive, in conformity with the law. No one may invoke religious beliefs or disciplines in order to avoid complying with the laws or to prevent another from exercising his rights.

Chapter II of the Penal Code, entitled 'Offences against freedom of worship', stipulates the following:

> Article 168: Whosoever, with a view to obstructing a religion that is lawfully established or about to be established in the Republic, prevents or disturbs the holding of religious functions or ceremonies, shall be liable to a prison term of 5 to 45 days.
>
> If the act is accompanied by threats, violence, insults or expressions of contempt, the length of imprisonment shall be 45 days to 15 months.
>
> Article 170: Whosoever, out of scorn for a religion established or about to be established in the Republic, destroys, ill-treats or defiles in any way whatsoever, in a public place, objects used by that religion, and any individual who ill-treats or insults any member of that religion's clergy, shall be liable to a prison term of 45 days to 15 months. If the offence has been committed against any clergyman in the exercise of or because of his functions, the sentence laid down for this offence shall be increased by one sixth.
>
> Article 171: Whosoever, in a place of worship or a cemetery, damages or defiles monuments, paintings, stones, steles, inscriptions or tumuli, shall be liable to a prison term of one to six months or a fine of 150 to 1,500 bolivars.

Freedom of thought

This freedom does not even need to be legally guaranteed, for, as long as thought is not externalized, it cannot be controlled and, when it is externalized, it enters the domain of freedom of expression and opinion.

In this connection, article 66 of the Constitution stipulates: 'Everyone has the right to express his thoughts by the spoken word or in writing and to make use of any means of dissemination, without prior censorship; but statements which constitute offences are subject to punishment, according to law'.

Anonymity is not permitted. Likewise, propaganda for war, that which offends public morals, and that for the purpose of inciting disobedience of the laws shall not be permitted, but this shall not repress analysis or criticism of legal principles.

We interpret religious tolerance as meaning 'The attitude by which everyone is left free to practise the religion he professes'.

In this context, religious tolerance should not be interpreted as being a discretionary act and an act of free will. In the legal sphere, according to constitutional and legal provisions, religious tolerance represents a duty (we are speaking of the respect and consideration that other religions are due).

As regards the legal order, article 43 of the Constitution provides that: 'Everyone has the right to the free development of his personality, with no other limitations than those deriving from the rights of others and from the public and social order'.

Together with article 65 mentioned above, article 79 of the Constitution follows this line of ideas; its text stipulates the right to devote oneself to science.

Venezuelan society displays an ongoing and deep respect for personal convictions and the dissemination of ideas. There is a climate of harmonious coexistence as regards religious freedom and the various religions make every effort to occupy their own area of society while agreeing that others have the right to spread a different message. Because of this, the community activities conducted by these organizations are often done on a joint basis, and this makes them more effective in achieving common goals.

This cultural basis, to which we have referred, is the most solid foundation for one of the pillars of the democratic system in force. For this reason, the State acts within the framework of the limits provided by the Constitution and refrains from intervening in the observance of the country's various religions or encouraging people to join any religion in particular.

Without any doubt, the Catholic religion is in first place from the numerical point of view, a situation that justifies its broader network of relations with the State, which are, however, kept to a bare minimum and do not represent special protection or preference that would introduce inequalities into the requirements for respecting and practising a religion. For that reason, the existence of an agreement between the Republic of Venezuela and the Holy See (Modus Vivendi) should not be interpreted as an act of discrimination, nor should the fact that the law relating to missions refers only to Catholic missions. These facts are simply the result of a preponderance that the State would not hesitate to recognize other religions as having if the current situation were to change. Furthermore, this preponderance does not lead to the State granting benefits or prerogatives to any religious organization.

An illustration of the Venezuelan State's neutral position towards religious beliefs is that of the educational establishments supported by the State. These establishments have no paid staff who are obliged to dispense religious education and, in establishments where the Church can offer such services, the freedom of the pupil and his parents is always respected, for it is not compulsory for all pupils to attend classes in religious instruction. Therefore, on a point that has been regarded as particularly relevant by the international organizations, religious freedom is not impaired.

In conclusion, it may be stated that the neutrality of the Venezuelan State ensures full freedom of religious faith and the development of religious beliefs in conformity with the dignity of the human person and the requirements of a democratic and civilized society."
